



✓  
FORMS AND PRECEDENTS  
OF  
PLEADINGS AND PROCEEDINGS  
IN  
The Court of Chancery for Ontario,

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BY  
✓  
WILLIAM LEGGO,  
OF OSGOODE HALL, BARRISTER-AT-LAW,  
LATE MASTER AT HAMILTON.

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HAMILTON:

1872.



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1872

FORMS AND PRECEDENTS

PRELIMINARY AND PROCEEDINGS

The Court of Chancery for Ontario

WILLIAM LAMONT

of the County of York, in the Province of Ontario,  
do hereby certify that the within and foregoing

is a true and correct copy of the original

as the same appears from the records of the

Court of Chancery for Ontario.

In witness whereof, I have hereunto set my hand and

affixed the seal of the said Court, at Toronto, this

\_\_\_\_\_ day of \_\_\_\_\_, 1872.

WILLIAM LAMONT,

Registrar of the Court of Chancery for Ontario.

By \_\_\_\_\_

Deputy Registrar.

1872

## PREFACE.

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**T**HIS work is intended to form the Third Volume of Leggo's Chancery Practice ; it is framed, however, for use either as a companion volume to the Practice, or as an independent work.

The Practice is now being printed in two volumes, and its publication will be urged on with all possible speed.

It will be observed that, in some of the Forms, expressions are used, which are not now strictly accurate. This has been occasioned by the promulgation of Orders since the printing of these Forms ; as many of them were in type in 1868 ; but the inaccuracies are slight, and easily corrected by reference to the few Orders issued since the general ones of June 1868.

HAMILTON, September 1872.

## PREFACE

THE first of the two volumes of the *Journal of the Royal Society of Medicine* is now published. It contains the proceedings of the Society during the year 1884, and is the first of a series of volumes which will be published in the future. It will be found that in some of the papers, particularly in the paper on the "Pathology of the Heart," the author has been very successful in his treatment of the subject. The paper on the "Pathology of the Heart" is a very good one, and is well written. It is a paper which will be found to be of great interest to the reader. The paper on the "Pathology of the Heart" is a very good one, and is well written. It is a paper which will be found to be of great interest to the reader.

London, September 1884.

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# FORMS AND PRECEDENTS.

## CHAPTER I.

### GENERAL FORMS.

#### SECTION I.—INDORSEMENT OF NAME AND ADDRESS ON PROCEEDINGS.

*Name or Firm ; as : John Jones—Or, Jones & Styles.*  
*Place of business ; as : of No. 6, King Street, city of Hamilton.*

1.  
Indorsement on writs and other proceedings, of name and address of solicitor suing out or leaving same at record and writ clerks' office or office of a Dep'y Reg'r (a).

*If the Solicitor is only agent for another Solicitor, add the name or firm and place of business of the principal Solicitor ; as : Agent for Thomas Smith—Or, Smith & Brown—of Simcoe, in the county of Norfolk :*

*Conclude with name of client ; as : Solicitor for the plaintiff [Or, defendant George Bruce—Or, George Bruce, above named—Or, George Bruce, within named—or as may be].*

Solicitor: John Jones—Or, Jones & Styles,  
Place of business: No. 6, King Street, city of Hamilton.  
Agent for: Thomas Smith—Or, Smith & Brown—of Simcoe, Norfolk.  
Client: Solicitor for the plaintiff [or as may be].

2.  
Another form thereof (b).

John Jones, of No. 6, King Street, city of Hamilton, Agent for Thomas Smith, of Simcoe, Norfolk, Solicitor for the plaintiff [or as may be].

3.  
The like (c).

This bill is filed [Or, This appointment was taken out] by John Jones, of (d.c., as in No. 1. ante).

4.  
The like (d).

(a) See Ord. 40, 41. Throughout these forms the Clerk of Records and Writs or his office only will be mentioned, but it is to be understood that these expressions will refer to the Deputy Registrar and his office, where the pleadings are filed in an outer county.

(b) See Ord. 40, 41.

(c) See Ord. 40, 41.

(d) *Ibid.*

6.  
The like (e).

John Jones, of No. 6, King Street, city of Hamilton, and Charles Robinson, and Edward Williams (firm, Robinson and Williams), of No. 4, Dundas Street, London, joint Solicitors for the plaintiff, &c.: [Or, John Jones, of No. 6, King Street, city of Hamilton, Agent for Smith and Brown, of Simcoe, Norfolk, and for Jones and Robinson, of Simcoe, Norfolk, joint Solicitors for the plaintiff, &c.]

6.  
The like in-  
dorsement, of a  
party acting in  
person (f).

Name: James Williams, the plaintiff [Or, defendant—Or, within named—Or, above named], in person:

Place of residence; as: of the town of Dundas, in the county of Wentworth:

If the residence is more than three miles from the Recorder and Writ Clerks' office, add an address for service within that distance; as: and whose address for service is at the office of Mr. Daniel Hughes, No. 4, John Street, in the city of Hamilton.

7.  
Another form  
thereof (g).

Party: James Williams, plaintiff [or as may be] in person.  
Place of residence: the town of Dundas, county of Wentworth.

Address for service: Office of Mr. Daniel Hughes, No. 4, John Street, in the city of Hamilton.

8.  
The like (A).

James Williams, plaintiff [or as may be] in person, of the town of Dundas, in the county of Wentworth—Address for service, at office of Mr. Daniel Hughes, No. 4, John Street, in the city of Hamilton.

9.  
The like (f).

This bill is filed [Or, This appointment was taken out] by James Williams, the plaintiff (&c., as in No. 6, ante).

(e) *Ibid.* An agent cannot act as such in filing a bill, or defending a suit, for a solicitor resident out of the jurisdiction. Two solicitors, though not in partnership, or two distinct firms of solicitors, may act for the same party; but if they act as principal solicitors, they must unite in giving one common address for service, in addition to their own respective addresses; and if they act by an agent, they must unite, in employing the same agent. Where separate solicitors or firms of solicitors have appeared separately for several defendants, they cannot unite in filing a joint answer for such defendants collectively: as the indorsement of the name, &c., of one solicitor, or firm of solicitors, only, is allowed on the answer. Where it is desired to file such joint answer, an order must first be obtained to change solicitors: so as to entitle one solicitor, or firm, to represent all the defendants included in the answer: see Brathwaite's Pr. 9.

(f) See Ord. 44. Where the plaintiff, a married woman, suing by her next friend, obtained an order to sue in person by her next friend, instead of acting by a solicitor, the subsequent proceedings were indorsed or subscribed: "A. B., the plaintiff, and C. D., her next friend, in person—Address for service at" &c.: *Moye v. Bateman*, cited Brathwaite's Pr. 10. Where three defendants appeared in person, the Court directed that one set of notices for all the defendants, instead of one set for each, should in future be left at their common address for service: *Waggett v. Outbush*, M. R. 2nd May, 1868: *Ex. rel. Mr. King* (Registrar.)

(g) Ord. 40, 41.

(A) *Ibid.*

(f) *Ibid.*

(Short title.)

Take notice, that my place of business [Or, place of residence—Or, address for service] is now at (State where; as: Blank Street, in the city of Toronto), instead of at (State where; as: No. 6, King Street, in the city of Hamilton.)

10.  
Notice of change of place of business or residence, or of address for service.

Dated this — day of —, 18—.

A. B., solicitor [Or, agent] for the plaintiff, &c.—Or, the plaintiff, &c., in person.

To the Clerk of Records and Writs;  
and to Mr. C. D., solicitor [Or, agent]  
for the defendant E. F. [or as may be].

SECTION II.—AFFIDAVITS, OATHS AND JURATS.—AFFIRMATIONS, DECLARATIONS AND AFFIRMATS.

1. Affidavits, and Oaths and Jurats thereto.

In Chancery.

(Title of cause or matter.)

11.  
Formal parts of an affidavit: one deponent.

I, A. B., of (Place of residence, and description or addition, make oath and say, as follows:

- 1.
- 2.

Sworn before me at —, in the County of —, on the — day of — A.D., — (j).

In Chancery.

(Title of cause or matter.)

We, A. B., of (Place of residence, and description or addition), and C. D., of, &c., severally make oath and say, as follows:

- 1.
- 2.

Or, severally make oath and say as follows:

And first I the said A. B., for myself, say:

- 1.
- 2.

And I the said C. D., for myself, say:

- 3.
- 4.

And we the said A. B., and C. D., further severally say:

- 5.
- 6.

12.  
Formal parts of an affidavit: two or more deponents.

Sworn (&c.: see post, No. 14.)

(j) This is the form prescribed by Order 258, and is Schedule M referred to in that order.

13.  
Ordinary forms  
of oath and  
jurat: one deponent.

To the deponent: Is that your name and handwriting?  
You do swear that the contents of this your affidavit are true—So help you God (k).

Jurat:

A. B. { Sworn (l), (If the deponent is not the only one to  
the affidavit, add: by the deponent A. B.,) at (State  
where; as:  
the City of Hamilton, in the County of  
Wentworth.

(State when; as: this — day of —, 18 —),

before me,

C. D.,

Commissioner, &c.

14.  
The like: two  
or more deponents  
sworn  
together (m).

To each deponent: Is that your name and handwriting?  
To both, or all: You do severally swear that the contents  
of this your affidavit are true—So help you God.

A. B. { Sworn by the deponents A. B. and C. D.  
C. D. { [or as may be], at (Continue as in last  
form, to the end).

15.  
Oath of a blind  
deponent, and  
jurat, where the  
officer reads to  
him the affidavit (n).

To the deponent: You do swear that the contents of this  
your affidavit are true—So help you God.

(k) See Braithwaite's Fr. 379; Braithwaite's Oaths in Chan. 56, 33. The like form is used in the case of a peer: *ib.* 33. A Christian swears on the Holy Evangelists; a Jew upon the Pentateuch. A complete Testament need not be used in either case. A Christian, in making oath, holds the book in his or her right hand: the hand being uncovered, and, in the case of a male person, the head being uncovered also. A Jew, in making oath, holds the book in the right hand, the hand being uncovered, but the head covered. If, however, the Jew wishes to make oath with his head uncovered, the officer cannot object to it: Braithwaite's Oaths in Chan. 25. Oaths are to be administered in a reverent manner: Ord. April, 1673.

(l) The jurat should be written at the end of the affidavit. It is usually placed at the right hand corner; but may be written on either side of the page, or, if necessary, in the margin; but not on a page upon which no part of the statements in the affidavit appears. It must also express the time when, and the place where, the affidavit is sworn, including the name of the city, borough, or county: *ib.* An affidavit, or any other document sworn to, may be re-sworn at any time before it is filed. If, on re-swearing, a second jurat is given, commencing with the word "Re-sworn," then the first jurat should not be struck out, or in any manner interfered with: *ib.*; but if the second jurat commences with the word "Sworn": in other words, if the jurat on the re-swearing is such as is used when a document is first sworn to: then the first jurat must be struck out, and such striking out must be authenticated by the initials of the Commissioner before whom the affidavit is last sworn: Braithwaite's Fr. 345.

(m) Where all the deponents are not sworn at the same time, a separate jurat must be written for each occasion on which the oath is administered: Braithwaite's Fr. 379, n. (a); Braithwaite's Oaths in Chan. 37, n. (b).

(n) In the case of a blind man or marksman, the affidavit must first be read over to him, either by the person before whom the affidavit is sworn, or by some other person. In the latter case, such person must first be sworn that he has read over the affidavit, and any exhibits thereto, to the deponent, and must attest his signature or mark: *ib.*; and see next Form.

A. B.  
[Or,  
The mark of  
x  
A. B.]

Sworn by the deponent A. B., at (*State where, and when, as in No. 13, ante*), before me: I having first truly, distinctly, and audibly read over to him the contents of this affidavit (*If any exhibits are referred to in the affidavit, add: and explained to him the nature and effect of the exhibits therein referred to*): he being blind; and he appeared to understand the same. (*Signature and style of office: see ante, No. 13*).

*To the witness: Is that your name and handwriting?*

You do swear that you have truly, distinctly, and audibly read over the contents of this affidavit to the deponent A. B. (*If any exhibits are referred to in the affidavit, add: and explained to him the nature and effect of the exhibits therein referred to*); and that he appeared to understand the same, and signed his name [*Or, made his mark*] to this affidavit in your presence—So help you God.

*To the blind man: You do swear that the contents of this your affidavit are true—So help you God.*

16.  
Oaths and jurat, where a witness reads the affidavit to a blind deponent.

A. B.  
[Or,  
The mark of  
x  
A. B.]

Witness to the signature [*Or, mark*] of the deponent A. B.:  
C. D.,  
of (*Residence and addition.*)

Sworn by the deponent A. B., at (*State where, and when, as in No. 13, ante*): C. D., the witness to the signature [*Or, mark*] of the deponent A. B., having been first sworn that he had truly, distinctly, and audibly read over the contents of this affidavit to the deponent A. B. (*If any exhibits are referred to in the affidavit, add: and explained to him the nature and effect of the exhibits therein referred to*): he being blind; and that the deponent A. B. appeared to understand the same, and signed his name [*Or, made his mark*] to this affidavit, in the presence of the deponent C. D.:  
before me (&c.: *see ante, No. 13*).

*To the deponent: Is that your name and handwriting?*

You do swear that the contents of this your affidavit are true—So help you God.

A. B. { Sworn at (*State where, and when, as in No. 13, ante*),  
before me (&c.: *see ante, No. 13*).

17.  
Ordinary form of oath by a deaf and dumb deponent, and jurat (o).

(o) Braithwaite's Pr. 368; Braithwaite's Oaths in Chan. 37. The procedure in this case is as follows, where the deponent is able to read and write: the officer before whom the affidavit is to be sworn should question the deponent, in writing, whether the signature placed beside the jurat is his name and handwriting, and give him the ordinary form of oath to read; he should then hand him the book, and administer the oath: pointing to the words of the oath as he proceeds; the deponent must then kiss the book, and the ceremony is complete: *ib.* As to the course where the deponent is not able to read and write, see *ib.*



18.  
Oaths and jurat,  
where a foreign-  
er deposes in  
English, through  
an interpreter.

*To the interpreter:* Is that your name and handwriting (p)?

You do swear that you well understand the French language [or other language of the foreigner]; and that you have truly, distinctly, and audibly interpreted the contents of this affidavit to the deponent A. B.; and that you will truly and faithfully interpret to him the oath about to be administered to him—So help you God.

*To the foreigner, through the interpreter:* Is that your name and handwriting?

You do swear that the contents of this your affidavit are true—So help you God.

A. B.  
C. D.,  
of (Residence,  
and  
addition (q).

{ Sworn at (State where, and when, as in No. 13, ante), by the deponent A. B., through the interpretation of C. D.: the said C. D. having been first sworn that he had truly, distinctly, and audibly interpreted the contents of this affidavit to the deponent A. B.; and that he would truly and faithfully interpret to the said A. B. the oath about to be administered to him:

Before me (&c.: see ante, No. 13).

19.  
Oaths and jurat,  
where the affi-  
davit is in a  
foreign lan-  
guage: the oath  
being interpret-  
ed to the  
deponent.

*To the interpreter:* Is that your name and handwriting?

You do swear that you well understand the French language [or other language of the foreigner]; and that you will truly and faithfully interpret to the deponent A. B. the oath about to be administered to him—So help you God.

*To the foreigner, through the interpreter:* Is that your name and handwriting?

You do swear that the contents of this your affidavit are true—So help you God.

A. B.  
C. D.,  
of (Residence,  
and  
addition.)

{ Sworn at (State where, and when, as in No. 13, ante), by the deponent A. B., through the interpretation of C. D.: the said C. D. having been first sworn that he would truly and faithfully interpret to the said A. B. the oath about to be administered to him:

before me (&c.: see ante, No. 13).

(p) It seems desirable, but is not, in practice, considered essential, that the interpreter should sign the affidavit: Braithwaite's Pr. 381, n. (a); Braithwaite's Oaths in Chan. 35, n. (k).

(q) *Ibid.* If the interpreter does not sign the jurat, his place of residence and addition must be stated in the jurat, immediately after the first occurrence of his name.

*To the translator :* Is that your name and handwriting ?

You do swear that you well understand the French language [or other language in which the affidavit is written] ; and that the above written is a true translation into the English language of the affidavit of A. B. in the French [or as may be] language thereunto annexed—So help you God.

90.  
Verification of a translation of the affidavit into English, in like case (r).

C. D. { C. D., of (Residence and addition ; as : No. 90, King Street, in the City of Hamilton, notary public), was sworn at (State where, and when, as in No. 13, ante), that the above written is a true translation into the English language of the affidavit of A. B. in the French [or as may be] language thereunto annexed ; and affixed together at the top thereof under the (notarial) seal of the said C. D., with his name thereto subscribed :

before me ( &c. : see ante, No. 13 ).

Subscribed with a seal, and sworn to by the above-named A. B., at (State where, and when, as in No. 13, ante), through the interpretation of C. D. : the said C. D. having been previously sworn that he had first translated and explained to the said A. B., in the Hindostanee language, the contents of this affidavit ; that the said A. B. perfectly understood the contents of this affidavit ; that he the said C. D. would truly interpret the oath about to be administered to the said A. B. ; and that the seal used by the said A. B. was his own signet, wherewith he always signed documents, according to the custom of his own country :

91.  
Jurat to affidavit or a Hindoo, interpreted to him in English.

before me ( &c. : see ante, No. 13 ).

*To the deponent :* Is that your mark ?

You do swear that the contents of this your affidavit are true—So help you God.

92.  
Oath of a marksman, and jurat, where the officer reads to him the affidavit.

The mark of { Sworn by the deponent A. B., at (State where, and when, as in No. 13, ante), before me : I having first truly, distinctly, and audibly read over to him the contents of this affidavit (If any exhibits are referred to in the affidavit, add : and explained to him the nature and effect of the exhibits therein referred to) ; and he appeared to understand the same :

(Signature and style of office : see ante, No. 13).

(r) Where an affidavit is written in a foreign language, a translation into English, verified by a competent person, must be filed with the original : see Braithwaite's Oaths in Chan. 35, n. (A).

23.  
Oaths and jurat.  
where a witness  
reads the affi-  
davit to a  
marksman.

*To the witness: Is that your name and handwriting?*

You do swear that you have truly, distinctly, and audibly read over the contents of this affidavit to the deponent A. B. (*If any exhibits are referred to in the affidavit, add: and explained to him the nature and effect of the exhibits therein referred to*); and that he appeared to understand the same, and made his mark to this affidavit in your presence—So help you God.

*To the marksman: Is that your mark?*

You do swear that the contents of this your affidavit are true—So help you God.

The mark of

×  
A. B.

Witness to the  
mark of the  
said A. B.:  
C D.,  
of (*Residence and  
addition*).

(Sworn by the deponent A. B., at (*State where, and when, as in No. 13, ante*): C. D., the witness to the mark of the said A. B., having been first sworn that he had truly, distinctly, and audibly read over the contents of this affidavit to the deponent A. B. (*If any exhibits are referred to in the affidavit, add: and explained to him the nature and effect of the exhibits therein referred to*); and that the deponent A. B. appeared to understand the same, and made his mark to this affidavit, in the presence of the deponent C. D.:

before me &c.: *ante*, No. 13).

24.  
Oath of a  
Scotch Cove-  
nanter, &c., un-  
der 1 & 2 Vic. c.  
105, and jurat.

*To the deponent: Is that your name and handwriting?*

*To be uttered by him: I, A. B., do solemnly and sincerely declare that (*State in what form, and with what ceremony, an oath will be binding; as: holding up my right hand, and declaring to the truth of this my affidavit, as I shall answer to God at the great day of judgment*), is a form of oath that is most binding on my conscience; and I do solemnly and sincerely declare that the contents of this my affidavit are true (*Repeat the binding form; as: as I shall answer to God at the great day of judgment*).*

A. B. { Sworn by the deponent A. B., pursuant to the Act  
1st & 2nd Victoria, chapter 105, at (*State where, and  
when, as in No. 13, ante*),  
before me (&c.; *ante*, No. 13).

## 2. Affirmations, Declarations and Affirmats thereto.

25.  
Affirmation by  
a Quaker or  
Moravian.

In Chancery.

(*Title of cause or matter.*)

I, A. B., of (*Place of residence, and description or addition*),

AFFIDAVITS, OATHS, JURATS.—AFFIRMATIONS, ETC.

being one of the people called Quakers [*Or*, one of the persuasion of the people called Quakers—*Or*, of the United Brethren called Moravians], do solemnly, sincerely, and truly declare and affirm as follows:

- 1.
- 2.

Affirmed (&c. : *see post*, No. 26).

*To the affirmant*: Is that your name and handwriting?

*To be uttered by him*: I, A. B., do solemnly, sincerely, and truly declare and affirm that the contents of this my affirmation are true.

26.  
Declaration and affirmat to Quaker or Moravian.

A. B. { Affirmed by the said A. B., at (*State where, and when, as in No. 13, ante*):

before me (&c. : *ante*, No. 13).

In Chancery.

(*Title of cause or matter*).

I, A. B., of (*Residence, and description or addition*), having been one of the people called Quakers [*Or*, one of the persuasion of the people called Quakers—*Or*, of the United Brethren called Moravians—*as the case may be*], and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely, and truly declare and affirm as follows:

27.  
Affirmation by an Ex-Quaker or Ex-Moravian, under 1 & 2 Vic., c. 77.

- 1.
- 2.

Affirmed (&c. : *see next Form*).

*To the affirmant*: Is that your name and handwriting?

*To be uttered by him*: I, A. B., having been one of the people called Quakers [*Or*, one of the persuasion of the people called Quakers—*Or*, of the United Brethren called Moravians—*as the case may be*], and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely, and truly declare and affirm that the contents of this my affirmation are true.

28.  
Declaration and affirmat thereto.

A. B. { Affirmed by the said A. B., pursuant to the Act 1st & 2nd Victoria, chapter 77, at (*State where, and when, as in No. 13, ante*).

before me (&c. : *ante*, No. 13).

28.  
Affirmation by  
a Separatist,  
under 3 & 4  
Will. IV., c. 22.

In Chancery.

(Title of cause or matter).

I, A. B., of (*Residence, and description or addition*), do, in the presence of Almighty God, solemnly, sincerely, and truly affirm and declare, that I am a member of the religious sect called Separatists, and that the taking of any oath is contrary to my religious belief, as well as essentially opposed to the tenets of that sect. And I do also, in the same solemn manner, affirm and declare as follows:

- 1.
- 2.

Affirmed (&c. : see next Form).

29.  
Declaration and  
affirmat thereto.

To the affirmant: Is that your name and handwriting?

To be uttered by him: I, A. B., do, in the presence of Almighty God, solemnly, sincerely, and truly affirm and declare, that I am a member of the religious sect called Separatists, and that the taking of any oath is contrary to my religious belief, as well as essentially opposed to the tenets of that sect. And I do also, in the same solemn manner, affirm and declare that the contents of this my affirmation are true.

A. B. { Affirmed and declared by the said A. B., pursuant  
to the Act 3rd & 4th William the IV., chapter 82,  
at (*State where, and when, as in No. 13, ante*):  
before me (&c. : ante, No. 13).

31.  
Joint affidavit  
and affirmation,

3. Affidavits and Affirmations, Generally.

In Chancery.

(Title of cause or matter).

I, A. B., of, &c., make oath and say, and I, C. D., of, &c., being one of the people called Quakers [*or as may be: see preceding Forms*], do solemnly, sincerely, and truly affirm and declare [*or as may be*], as follows:

And first I, the said A. B., for myself, say:

- 1.
- 2.

And I, the said C. D., for myself, say:

- 3.
- 4.

A. B. { Sworn by the said A. B., and affirmed by the said  
C. D. (&c. : see preceding Forms), at (*State where,*  
and when, as in No. 13, ante):  
before me (&c. : ante, No. 13).

*Formal parts : see ante, No. 11.*

1. I am well acquainted with the handwriting of A. B., of (State address, as in jurat to affidavit, notarial act, or certificate &c. : as thus : Dijon, in the Empire of France) : having seen him write.

32.  
Affidavit verifying signature of a foreign magistrate, &c., to an affidavit where not judicially noticed.

2. The signature "—" set and subscribed to the jurat [or as may be] at the foot of the paper writing marked A. now produced and shown to me, and purporting to be an affidavit sworn in this cause [Or, matter] by C. D. before the said A. B., is of the proper handwriting of the said A. B.—If so; and the seal affixed to or impressed on the said affidavit, near such signature, is the seal of office of the said A. B.

3. The said A. B. is a (Describe what, as in jurat to affidavit notarial act, or certificate, &c. : as thus : notary public, duly admitted as such, and practising at Dijon aforesaid) ; and by the law and practice of (France) the said A. B. had, at the time the said affidavit was sworn before him, full power and authority to administer oaths and take affidavits; and affidavits taken before him in the manner aforesaid are received in the Courts of Judicature in (France) in all proceedings where affidavits are required or in use.

4. Show means of knowledge.

In Chancery.

(Short title of cause or matter).

This is the paper [Or, parchment] writing, marked A., referred to in the affidavit [Or, affirmation] of A. B. (and C. D.), sworn [Or, affirmed] in this cause [Or, matter] before me (If not by all the deponents or affirmants, add : by the said A. B.) this — day of —, 18—.

33.  
Memorandum of identity of exhibit.

E. F., A Commissioner, &c.

We consent to this affidavit [Or, affirmation] being filed notwithstanding (Describe the defect ; as thus : the omission of "John" before "Jones" among the defendants' names in the title thereof—Or, the officer before whom the same has been sworn has not authenticated the interlineation of the words "as I know," between the 8th and 9th lines of page 2 thereof).

34.  
Consent to affidavit or affirmation being filed, notwithstanding omissions or unauthenticated alterations.

A. B., solicitor for the plaintiff [Or, defendant C. D.  
—Or, petitioner—Or, respondent or as may be].  
E. F., solicitor for the defendant G. H., &c.

55.  
Notice of filing  
affidavit or  
affirmation.

*Formal parts: see post, No. 52. a.*

Take notice, that I have this day filed an affidavit [*Or, affirmation*] herein of A. B. [*Or, an affidavit of each of the following persons, namely: A. B., C. D., and E. F., &c.—or as may be*].

56.  
Notice of inten-  
tion to read an  
affidavit, or  
affirmation,  
already filed.

*Formal parts: see post, No. 52. a.*

Take notice, that the plaintiff [*or as may be*] intends to read, on the hearing of the petition presented by him in this cause [*Or, matter*] on the —, 18—, [*Or, of the motion to be made in this cause [Or, matter] pursuant to the notice given on his behalf on the —, 18—, or as may be,*] the affidavit [*Or, affirmation*] of A. B., filed in this cause [*Or, matter*] on the —, 18—.

57.  
Affidavit of ser-  
vice of a notice,  
or notice of  
motion.

*Formal parts: see ante, No. 11.*

1. On —, the — day of —, 18—, [before four o'clock in the afternoon—*or as may be*—of that day.] I served (*Describe the person or persons required to be served; as thus:*

A. B., the defendant—*Or, one of the defendants—in this cause,*

*Or, A. B., who, by an order dated the — day of —, 18—, has liberty to attend the proceedings in this cause [Or, matter],*

*Or, A. B., in the order made in this cause [Or, matter] dated the — day of —, 18—, named,*

*Or, A. B., of (Residence and addition),*

*Or, Mr. C. D., who acts as solicitor [Or, agent] in this cause [Or matter] for the plaintiff, &c.,*

*Or, each of the following persons, that is to say: (1)*

*A. B., one of the defendants in this cause; (2) Mr.*

*C. D., who acts as solicitor in this cause for the plaintiff; and (3) Mr. G. H., who acts as agent in*

*this cause for L. M., who, by an order dated, &c., has liberty to attend the proceedings therein,*

*or as may be,* with a notice in writing intituled in this cause [*Or, matter*], addressed to the said (*State whom,*) and purporting that (*Recite the body of the notice*). by delivering a true copy of the said notice to, and leaving the same with (*Describe the person or persons on whom, and where, service was effected; as thus:*

the said A. B., personally, at (*State where*), in the (county) of —,

*Or, the said A. B., personally, at (State where), in the (county) of —, and the said C. D., personally, at, &c.,*

*Or*, each of the following persons, that is to say: (1) the wife of the said A. B., at his dwelling house, situate at (*State where*), in the (county) of —; (2) the clerk of the said C. D., at the office of the said C. D., situate at, &c.; and (3) the servant of the said G. H., at the address for service of the said G. H., situate at, &c.).

*Formal parts: see ante, No. 11.*

1. On —, the — day of —, 18—, [before four o'clock in the afternoon—or as may be—of that day,] I served (*Describe the person or persons required to be served; as thus:*

38.  
Affidavit of service of a decree or order.

A. B., the defendant—*Or*, one of the defendants—in this cause,

*Or*, A. B., who, by an order dated the — day of —, 18—, has liberty to attend the proceedings in this cause [*Or*, matter],

*Or*, A. B., who is named in the order dated the — day of — (*order served*), hereinafter mentioned,

*Or*, Mr. C. D., who acts as solicitor [*Or*, agent] in this cause [*Or*, matter] for the plaintiff, &c.,

*Or*, each of the following persons, that is to say: (1)

A. B., one of the defendants in this cause; (2) Mr. C. D., who acts as solicitor in this cause for the plaintiff; and (3) Mr. G. H., who acts as agent in this cause for L. M., who, by an order, dated, &c., has liberty to attend the proceedings therein,

or as may be), with a decree [*Or*, an order] made in this cause [*Or*, matter] dated the — day of —, 18—, and now produced and shown to me and marked A. [*Or*, if not exhibited, say, after 18—: whereby it was (decree and) ordered that—and recite the declaratory and ordering parts], by delivering a true copy of the said decree [*Or*, order] to, and leaving the same with (*Describe the person or persons on whom, and where, service was effected, as in No. 37, ante*).

2. At the time of the aforesaid service thereof, I showed to the person [*Or*, to each of the persons] to whom such true copy of the said decree [*Or*, order] was delivered, as aforesaid, the said original decree [*Or*, order] duly passed and entered.

*Formal parts: see ante, No. 11.*

1. On —, the — day of —, 18—, [before four o'clock in the afternoon—or as may be—of that day,] I served (*Describe the person or persons required to be served; as thus:*

39.  
Affidavit of service of a petition.

A. B., the defendant—*Or*, one of the defendants—in this cause.



Or, A. B., who, by an order dated the — day of —, 18—, has liberty to attend the proceedings in this cause [Or, matter],

Or, A. B., in the order made in this cause [Or, matter] dated the — day of —, 18—, named,

Or, A. B., who is named in the note at the foot of the petition hereinafter mentioned,

Or, Mr. C. D., who acts as solicitor [Or, agent] in this cause [Or, matter] for the plaintiff, &c.,

Or, each of the following persons, that is to say: (1)

A. B., one of the defendants in this cause: (2) Mr.

C. D., who acts as solicitor in this cause for the plaintiff; and (3) Mr. G. H., who acts as agent in

this cause for L. M., who, by an order, dated, &c., has liberty to attend the proceedings therein,

or as may be), with a petition preferred in this cause [Or, matter] by (State whom; as thus: the above-named plaintiffs), to the Judges of the Court of Chancery with a notice endorsed thereon, addressed to (name the parties), whereby they were informed that the said petition would be heard on (State the time) at (State the place), and that if they did not appear on the said petition, at the said time and place, the court might make such order, on the petitioner's own showing as should appear just, by delivering a true copy of the said petition, and notice to, and leaving the same with (Describe the person or persons on whom, and where, service was effected, as in No. 37, ante.)

2, At the time of the aforesaid service thereof, I showed to the person [Or to each of the persons] to whom such true copy thereof was delivered, as aforesaid, the said original petition, with the said notice thereon.

**40**  
Affidavit of  
service of a  
notice, notice of  
motion, or  
order, on a sub-  
stitute.

Formal parts: see ante, No. 11.

1. On —, the — day of —, 18—, [before four o'clock in the afternoon—or as may be—of that day,] I served (Describe the person or persons required to be served, as in No. 37, ante) with a (Describe the notice or other document served, as in No. 37, ante), by delivering to, and leaving with (Name of substitute), personally, at (State where), in the (county) of —, a true copy of the said notice [or as may be—see ante, Nos. 37, 39.

2. State production of original order, as in para. 2 of No. 38, when applicable.

3. The said (substitute) is the person of that name who is mentioned in the order made in this cause [Or matter], dated the — day of —, 18—, whereby it was ordered that (Set out directions as to the substituted service); and at the time of the aforesaid service on the said (substitute), I also served

him with the last mentioned [or as may be] order, by delivering to, and leaving with him, a true copy of such order; and I at the same time produced and showed to him such original order, duly passed and entered.

In Chancery.

(Title of cause or matter.)

I, A. B., of (Place of business), gentleman, the solicitor [Or, I, A. B., of (Residence), clerk to C. D., of (Place of business), gentleman, the solicitor] in this cause [Or, matter] for the defendant E. F.—or as may be—make oath and say as follows:

41.  
Affidavit of having been served with a notice, or order.

1. On the — day of —, 18—, I, as such solicitor as aforesaid [Or, I, as such clerk as aforesaid—or as may be], was duly served (State where; as thus: at my office [Or, at the office of the said C. D.], situate at, &c., aforesaid) by (State whom; as thus: Mr. G. H.—or a Clerk of Mr. G. H.—who acts as solicitor in this cause—Or, matter—for the plaintiff—or as may be), with the paper writing intituled in this cause [Or, matter], now produced and shown to me, and marked A., and purporting to be (Describe it shortly; as thus: a notice—Or, a copy of a notice—on behalf of the said plaintiff, &c., addressed to (State whom)—Or, a copy of an order made in this cause—Or, matter—dated the — day of —, 18—).

Sworn (&c.: ante, No. 13).

In Chancery.

Between—A. B. ....Plaintiff,  
and  
C. D. ....Defendant.

42.  
Affidavit of service of bill referred to in order 108, being Schedule D in that order mentioned.

I, — of —, in the County of —, make oath and say: I did, on the — day of —, personally serve C. D., the above named defendant — with a paper which purported to be an office-copy of the bill filed in this cause, by delivering to and leaving the said office-copy with the said defendant C. D. (If served otherwise than personally, say, with a grown up person Or, [as the case may be] at the dwelling-house of the said C. D.), at —, in the County of —. I FURTHER SAY, that the said office-copy purported to be authenticated by the signature of the Clerk of Records and Writs of this Court (or, Deputy Registrar at —) at the foot thereof; and that each page of the said office-copy was stamped with a stamp similar to the one which I now look upon in the margin of this affidavit. I FURTHER SAY, that upon the said office-copy, at the time of the service thereof, there was endorsed the following memorandum:

"Your answer is to be filed at the office of the Clerk of

Records and Writs, at Osgoode Hall, in the City of Toronto, (*Or*, Deputy Registrar at —).

"You are to answer or demur within four weeks from the service hereof.

"If you fail to answer or demur, within the time limited, you are to be subject to have such decree or order made against you as the Court may think just upon the plaintiff's own shewing; and if this notice is served upon you personally, you will not be entitled to any further notice of the future proceedings in the cause.

"NOTE—*This bill is filed by A. B., of the City of Toronto, in the County of York, Solicitor for the above-named plaintiff.*"

AND I FURTHER SAY, that to effect the said service I necessarily travelled — miles.

{ Sworn before me, at  
this day of  
in the year of our Lord 18

In Chancery.

Between—A. B. .... Plaintiff,  
and

C. D. .... Defendant.

43.  
Affidavit of  
service of a bill  
for foreclosure,  
under order 436  
—the notice  
being Schedule  
B referred to in  
that order.

I, — of —, in the County of —, make oath and say:  
I did, on the — day of —, personally serve C. D., the  
above named defendant — with a paper which purported  
to be an office-copy of the bill filed in this cause, by deliver-  
ing to and leaving the said office-copy with—the said de-  
fendant C. D., (*If served otherwise than personally. say, with a*  
*grown up person, Or. [as the case may be] at the dwelling-*  
*house of the said C. D., at —, in the County of —.* I  
FURTHER SAY, that the said office-copy purported to be  
authenticated by the signature of the Clerk of Records and  
Writs of this Court (*Or*, Deputy Registrar at —) at  
the foot thereof; and that each page of the said office-copy  
was stamped with a stamp similar to the one which I now  
look upon in the margin of this affidavit. I FURTHER SAY,  
that upon the said office-copy, at the time of the service  
thereof, there was endorsed the following memorandum:

"Your answer is to be filed at the office of the Clerk of  
Records and Writs, at Osgoode Hall, in the City of  
Toronto (*Or*, Deputy Registrar at —).

"You are to answer or demur within four weeks from  
the service hereof.

"If you fail to answer or demur, within the time above  
limited, or if you answer admitting the execution of the  
mortgage and other facts stated in the bill as entitling

the plaintiff to a decree, you are to be subject to have a decree or order made against you forthwith thereafter; and if this notice is served upon you personally, you will not be entitled to any further notice of the future proceedings in the cause.

"NOTE—This bill is filed by —, of —, in the County of — solicitor for the above-named plaintiff.

"AND TAKE NOTICE, that the plaintiff claims that there is now due by you for principal money and interest the sum of —, and that you are liable to be charged with this sum, with subsequent interest and costs, in and by the decree to be drawn up; and that in default of payment thereof within six calendar months from the time of drawing up the decree, your interest in the property may be foreclosed unless before the time allowed you, as by this notice for answering, you file in the office above named a memorandum in writing signed by yourself or your solicitor to the following effect:—

"— dispute the amount claimed by the plaintiff in this cause," in which case you will be notified of the time fixed for settling the amount due by you at least four days before the time to be so fixed. If you desire a sale of the mortgaged premises instead of a foreclosure you must, within the time allowed you to answer, file in the office above named a note or memorandum in writing, signed by yourself or your solicitor, to the following effect:—"I desire a sale of the mortgaged premises in the plaintiff's bill mentioned, or a competent part thereof, instead of a foreclosure," and deposit the sum of \$80 to meet the expenses of such sale."

AND I FURTHER SAY, that to effect the said service I necessarily travelled — miles.

Sworn, &c.

In Chancery.

Between—A. B. .... Plaintiff.

and

C. D. .... Defendant.

I, — of —, in the County of —, make oath and say: I did, on the — day of —, personally serve the above named defendant — with a paper which purported to be an office-copy of the bill filed in this cause, by delivering to and leaving the said office-copy with — the said defendant C. D. (If served otherwise than personally, say, with a grown up person, Or, [as the case may be] at the dwelling-house of the said C. D.), at —, in the County of —. I FURTHER SAY, that the said office-copy purported to be authenticated by the signature of the Clerk of Records and Writs of this

44'  
Affidavit of service of a bill for sale, under order 436—the notice being Schedule 8 referred to in that order.

Court (*Or*, Deputy Registrar at——) at the foot thereof; and that each page of the said office-copy was stamped with a stamp similar to the one which I now look upon in the margin of this affidavit. I FURTHER SAY, that upon the said office-copy, at the time of the service thereof, there was endorsed the following memorandum:

"Your answer is to be filed at the office of the Clerk of Records and Writs, at Osgoode Hall, in the city of Toronto (*Or*, Deputy Registrar at——).

"You are to answer or demur within four weeks from the service hereof.

"If you fail to answer or demur within the time above limited, or if you answer admitting the execution of the mortgage and other facts stated in the bill as entitling the plaintiff to a decree, you are to be subject to have a decree or order made against you forthwith thereafter; and if this notice is served upon you personally, you will not be entitled to any further notice of the future proceedings in the cause.

"NOTE—This bill is filed by —, of —, in the County of —, solicitor for the above-named plaintiff.

"AND TAKE NOTICE, that the plaintiff claims that there is now due by you for principal money and interest the sum of —, and that you are liable to be charged with this sum, with subsequent interest and costs, in and by the decree to be drawn up; and that in default of payment thereof within six calendar months from the time of drawing up the decree, your interest in the property may be sold — unless before the time allowed you, as by this notice for answering, you file in the office above named a memorandum in writing, signed by yourself or your solicitor, to the following effect:—"—dispute the amount claimed by the plaintiff in this cause," in which case you will be notified of the time fixed for settling the amount due by you at least four days before the time to be so fixed."

AND I FURTHER SAY, that to effect the said service I necessarily travelled — miles.

{ Sworn before me, at  
this day of  
in the year of our Lord 18

In Chancery.

I, — of —, in the County of —, make oath and say as follows:

1. I did on — day, the — day of —, personally serve the above named — with a true copy of the paper

43.  
Affidavit of  
where it  
ary to  
the  
original of the  
paper served.

—now shown to me marked with the letter — by delivering to and leaving with the said —, on the day last aforesaid, at —, in the County of —, the said copy.

2. At the time of effecting such service I did produce and show unto the said — the original of the said paper — so served as aforesaid, and which said original is marked as aforesaid with the said letter

3. To effect such service I necessarily travelled —  
Sworn before me, at —

In Chancery.

Between—A. B. ....Plaintiff,

and

C. D. ....By Bill,

and

E. F., made a party in the  
Master's office, .....Defendants.

I, — of —, in the County of —, make oath and say as follows:

1. That I did on the — day of —, one thousand eight hundred and —, personally serve the above-named E. F. with a true copy of the notice to encumbrancers in this cause, as prescribed by Order 444 of the Consolidated General Orders of this Honorable Court of June, 1868, marked Exhibit A, by delivering unto and leaving the same with the said E. F., at —, in the County of —.

2. That I necessarily travelled — miles to effect such services as aforesaid.

Sworn, &c.

In Chancery.

Between

and

Plaintiff,

Defendant.

I, — of —, make oath and say:

1. THAT the several persons whose names are set forth in the first column of the said Schedule hereunder written, were served with a Subpoena ad Testificandum in this cause, and in obedience to such Subpoena they severally attended and were examined before —, at —.

2. THAT at the time they were so Subpoenaed, they severally resided at the places set forth in the second column of the said Schedule, which places are distant from — aforesaid, the number of miles set forth in the third column of said Schedule. THAT they were respectively of the profession, business, or occupation mentioned in the fourth column

46.  
Affidavit of service of Notice T under order 444. Where the Appointment under order 446—being the second part of Schedule T—is required to be proven, the affidavit will be varied accordingly.

47.  
Affidavit of Disbursements.

of said Schedule. THAT they were necessarily absent from their respective places of residence, in going to, staying at, and returning from — aforesaid, the number of days set forth in the fifth column of said Schedule: AND THAT I, — paid to each of the said witnesses, for their travelling expenses, and loss of time, the respective sums set forth in the sixth column of the said Schedule.

3. THAT all the said witnesses were material and necessary witnesses on behalf of the —, and attended as witnesses in no other cause.

NAME.	RESIDENCE.	No. of Miles distant from Place of Examination	Profession, Business, or Occupation	No. of Days Absent.	Amount paid each Witness for Travelling Expenses and loss of Time.

(Style of cause.)

**48.**  
**Affidavit of**  
**service of**  
**decree under**  
**order 293, and**  
**of Schedule N**  
**referred to in**  
**that order.**

I, \_\_\_\_\_ of \_\_\_\_\_, in the County of \_\_\_\_\_, make oath  
and say:—

That I did, on the \_\_\_\_\_ day of \_\_\_\_\_, personally serve the above named \_\_\_\_\_ with the decree (or order) of this honorable court, made in this cause, bearing date, the \_\_\_\_\_ day of \_\_\_\_\_ under the seal of this honorable court, whereby it was ordered, that (*set out ordering part of decree or order*) by delivering to, and leaving with the said \_\_\_\_\_ a true copy of the said decree, and at the same time producing and shewing to him the said original decree duly passed and entered, on which copy, when so served as aforesaid, was endorsed a memorandum, in the words following: "If you, the within named \_\_\_\_\_, neglect to obey this decree (or order) by the time therein limited, you will be liable to be arrested by the sheriff, and you will also be liable to have your estate sequestered, for the purpose of compelling you to obey the same decree, without further notice."

Sworn, &c.

(Style of cause.)

49.  
Affidavit of  
service of  
Injunction.

I, A. B., &c.

1. I did, on the \_\_\_\_\_ day of \_\_\_\_\_, serve personally the

above named — with a true copy of the writ of injunction in this cause hereunto annexed, by delivering to and leaving the said copy with the said — at —, in the County of —.

2. At the time of such service I exhibited to the said — the original writ of injunction in the cause, under the seal of this honorable court.

Sworn, &c.

(Style of cause.)

1. I did, on the — day of —, at —, serve personally R. S. and F. G. named in the annexed writ of subpoena with the said annexed writ of subpoena in this cause, by delivering to and leaving with each of them, the said R. S. and F. G., a true copy of the said subpoena, and I at the same time exhibited to each of them the original writ of subpoena, under the seal of this honorable court.

2. At the time of such service I paid to the said R. S. and F. G., the sum of — as and for their witness fees in this cause.

Sworn, &c.

1. I was present on the — day of —, and saw — sign, seal and deliver the paper-writing or deed, dated, &c., marked with the letter — produced and shown to me at the time of swearing this my affidavit.

2. The name or signature “—” thereto set and subscribed as the party executing the said deed, is of the proper handwriting of the said —, and the name “—” set and subscribed as the person witnessing the execution thereof by the said — is of the proper handwriting of me, this deponent.

Sworn, &c.

1. I am well acquainted with the handwriting of the defendant *John Smith*, having often seen him write.

2. The indenture dated, &c., and purporting to be made between the said *John Smith*, &c., produced to me at the time of making this my affidavit, marked with the letter — was, as I believe, duly executed by the said defendant *John Smith*, and the name “*John Smith*,” set and subscribed at the foot of the said indenture, is of the proper handwriting of the defendant *John Smith*.

3. I am also well acquainted with the handwriting of *John Roe*, of, &c., and I say that the name “*John Roe*,” set and

amount paid  
each Witness  
Travelling  
expenses and loss  
of Time.

make oath  
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ee or order)  
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“If you,  
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able to be  
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telling you  
orn, &c.

sonally the-

50.  
Affidavit of  
service of  
Subpoena.

51.  
Affidavit of the  
execution of a  
deed by an  
attesting wit-  
ness.

52.  
Affidavit of  
execution of a  
deed by a person  
not a witness.



subscribed to the said indenture, as the attesting witness to the execution thereof by the said *John Smith*, is of the proper handwriting of the said *John Roe*.

Sworn, &c.

### In Chancery.

59a.  
Formal parts of  
a notice.

(Title of cause or matter).

Take notice, that—*State the object of the notice; as thus:* I have this day filed an affidavit on production by the defendant A. B., in pursuance of the order to produce served by you.

Dated this — day of —, 18—.

(Add name, &c., of solicitor or party giving the notice; as thus:

C. D., Agent for G. H. of —, Solicitor for the plaintiff [or as may be].

Or,

C D., of — (Address for service at the office of Mr. K. F., No. 8, King Street, Toronto), Plaintiff in person [or as may be].

To (Insert names of the solicitors or parties to whom the notice is given; as thus: Mr. C. D., solicitor [Or, agent] for the plaintiff [Or, defendant—Or, petitioner—Or, respondent E. F.].

Or. To the plaintiff—Or, defendant—Or, petitioner—Or, respondent G. H.—or as may be).

### In Chancery.

53.  
Formal parts of  
a notice of  
motion.

(Title of cause or matter).

Take notice, that this Honorable Court (s) will be moved on —, the — day of —, instant [Or, next] (t), or so soon thereafter as counsel can be heard on the part of (State on whose behalf the motion is to be made; as: the plaintiff (u),

(s) If the motion is to be made before a Local Master under Order 36, say: "Take notice, that A. B., Esq., Master of this Court, at —, will be moved, &c."

(t) If the motion is to be heard at a specially appointed hour, state it here; as: "at eleven o'clock in the forenoon."

(u) The christian and surnames, or title of honour, or corporate title, of the party on whose behalf the motion is to be made should be here stated; but if it appears by the notice that the application is made by the sole plaintiff, or all the plaintiffs, or by the sole defendant, or all the defendants, the names need not be set forth. The place of residence and description or addition of the applicant should be stated, if he is not shown to be a party to the suit or proceeding. Where the applicant is under disability, and the application is made by his next friend or guardian, the christian and surnames of the next friend or guardian should be stated; and if not made in a suit in which he is so acting, his place of residence and description or addition should be shown; as: "the plaintiff John Jones, an infant, by Thomas Styles his next friend"—Or, "the defendant Charles Jones, a person of unsound mind, not so found, by Thomas Styles his guardian"—Or, "Mary Jones, an infant, by Thomas Styles, of Esher, in the county of Surrey, gentleman, her next friend."

that (*State the precise object of the motion; as thus: the plaintiff's bill filed in this cause may stand dismissed out of this Court, with costs (v). And take notice that on such motion will be read the affidavits of — (or, the depositions of — taken—or, to be taken before A.B., Special Examiner at—.*) (*Mention specially the matter on which the motion is to be sustained, excepting certificates of officers of the Court, which may be read without being alluded to in the notice.*) Dated this — day of —, 18—.

(Name, &c., of solicitor (w) or party giving the notice: see last Form.)

To (*Insert names of the solicitors or parties to whom the notice is given: see last Form.*)

In Chancery.

(Title of cause or matter).

To the Honorable the Judges of the Court of Chancery  
—or, Deputy Registrar [*as the case may be*].

The humble petition of the plaintiff [*or as may be (x)*].

Showeth as follows:

1. By, &c. { *State the material facts on which the application is founded; and divide the statements into*
2. On, &c. { *paragraphs, numbered consecutively.*

Your petitioner therefore humbly prays that  
(*State the precise object of the petition.*)

And your petitioner will ever pray, &c. (y).

Proceed as in last Form, to the end of the stating part.

Your petitioner therefore humbly prays, that  
(*State the precise object of the petition.*)

Or that your lordships will please to make  
such other order in the premises as to your  
lordships shall seem meet.

And your petitioner will ever pray, &c.

(v) Where special leave has been obtained to serve the notice (as where the defendant has not appeared), or to give the notice for a non-motion day, or for a motion day short of the ordinary two clear days after service, or at a special hour or place, that fact should be here stated; as thus: "And take also notice that special leave to serve you with this notice—if so; and to give this notice for the day (and hour and place) aforesaid—has been obtained from the Chancellor [*or as may be*]"—Or, "And take also notice that special leave to give this notice for the day (and hour and place) aforesaid has been obtained from the said Chancellor [*or as may be*]."

(w) A notice of motion by a party suing or defending *in forma pauperis* (except for the discharge of his solicitor), must be signed by his solicitor.

(x) The petitioner should be described, in the manner explained, *supra*, No. 53, a.(n)

(y) A petition by a party suing or defending *in forma pauperis* (except for the discharge of his solicitor) must be signed by his solicitor.

(z) See notes to last form.

54.  
Formal parts of  
a petition of  
course.

55.  
Formal parts of  
a special peti-  
tion, to the like

56.  
Consent to a  
petition, not  
otherwise of  
course.

I consent to the prayer of this petition

A. B., solicitor for the plaintiff [Or, defendant  
— or as may be]

\_\_\_\_\_, 18—.

57.  
Notice of  
motion to dis-  
miss bill.

In Chancery.

Between  
and

Plaintiff,

De'endant.

Take notice, that this Honorable Court will be moved  
on — next, the — day of —, or so soon after as  
Counsel can be heard, that the plaintiff's bill may be  
dismissed out of this Court, as against the above named  
defendant — for want of prosecution, with costs to be  
taxed by the Master (Or, by the Master at —).

Yours, &c.,

To

For the plaintiff

In Chancery.

A. B. vs. C. D.

58.  
Notice of filing  
Replication.

Take notice, the plaintiff has this day filed Replication  
in this cause.

Dated — day of —, 18—.

To

For plaintiff.

In Chancery.

Between

59.  
Notice of filing  
answer or de-  
murrer.

Take notice, that the answer (Or, demurrer) of the de-  
fendant —, has this day been filed.

Dated this — day of — A.D. 18—.

\_\_\_\_\_, Solicitors for the defendant.

To —, Plaintiff's solicitor.

In Chancery.

and

Plaintiff,

60.  
Notice of cause  
set down for  
hearing.

Defendant.

To the above

Take notice, that this cause has been set down to be  
heard on the — day of —, and unless you attend at  
the time and place appointed a decree may be pronounced  
in your absence.

\_\_\_\_\_, Solicitor for the —.

In Chancery.

Plaintiff,

61.  
Notice of exam-  
ination and  
hearing.

and

Defendant

To the above

Take notice, that this cause has been set down for the examination of witnesses, and for hearing, at the Court House (in the city of Hamilton, *or as may be*) on the — day of —, at which time and place the witnesses for all parties must be examined and the cause heard; and unless you then and there attend, a decree may be pronounced in your absence.

—, Solicitor for the —.

In Chancery.

vs.

62.  
Notice of  
settling,  
or passing de-  
crees, or of  
settling the  
minutes of  
decree.

Take notice, that the Registrar, *Or*, the Referee in Chambers (*as the case may be*) will — the — decree in this cause, on — next, at — of the clock in the — noon, at his office, at Osgoode Hall, in the city of Toronto.

Dated this — day of —, 18—.

Yours, &c.,

To

In Chancery.

Between

and

Plaintiff,

63.  
Notice of mo-  
tion for decree.

Defendant.

Take notice, that this Honorable Court will be moved on — the — day of —, at — of the clock in the forenoon, or so soon after as Counsel can be heard for a decree or decretal order, in accordance with the prayer of the plaintiff's bill; or, that such other decree or order may be made as to this Honorable Court shall seem meet. And take notice, that in support of such motion will be read the plaintiff's bill, the answer of the said defendant, or such parts thereof as the plaintiff shall be advised to read; and the affidavits mentioned below, this day filed, and the exhibits therein referred to.

Dated this — day of —, 18—.

—, Plaintiff's solicitor.

To —, Defendant's solicitor.

The following affidavits will be read:—

Affidavit of

Affidavit of

64.  
Notice of pro-  
duction.

In Chancery.

(Short style of cause).

Take notice, that the plaintiff (*Or*, defendant) has this day filed his affidavit on production of books and papers, and has deposited the documents therein mentioned (*if the fact be so*) in the office of the Clerk of Records and Writs (*Or*, Deputy Registrar, *as the case may be*).

Dated, &c.

Yours, &c.,

To C. D., Esq., \_\_\_\_\_ A. B.,  
Solicitor for \_\_\_\_\_ Solicitor for \_\_\_\_\_.

65.  
Notice to in-  
spect papers  
produced.

In Chancery.

(Short style of cause).

Take notice, that I will attend at the office of the Clerk of Records and Writs (*Or*, of the Deputy Registrar, *as the case may be*) on \_\_\_\_\_ next, at \_\_\_\_\_ o'clock A.M. (*Or*, P.M.), to examine the books and papers produced by the defendant (*Or*, plaintiff, *as the case may be*).

Yours, &c.,

To C. D., Esq., \_\_\_\_\_ A. B.,  
Solicitor for \_\_\_\_\_ Solicitor for \_\_\_\_\_.

66.  
Notice of hear-  
ing on further  
directions.

In Chancery.

(Style of cause).

To the above named defendants.

Take notice, that this cause has been set down to be heard on further directions (*and as to the matter of costs*) on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, and unless you attend at the time and place appointed, a decree may be pronounced in your absence.

Dated, &c.

Yours, &c.,

A. B., Solicitor for plaintiff.

66a.  
Notice of mo-  
tion for order  
*pro confesso*.

In Chancery.

(Style of cause).

Take notice, that a motion will be made on behalf of the plaintiff, at Osgoode Hall, in Chancery Chambers, in the city of Toronto, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, at ten o'clock in the forenoon, or so soon thereafter as the motion can be made for an order that the plaintiff may be at liberty forthwith to set this cause down to be heard, in order that the bill may be taken *pro confesso* against you. And take notice,

that upon such motion will be read on the affidavit of service of an office-copy of the said bill upon you, and the certificate of no answer being filed.

Dated, &c.

Yours, &c.,

To C. D., Esq.,

A. B.,

Solicitor for defendant.

Solicitor for plaintiff.

*Formal parts: see ante, No. 53.*

on the part of (the plaintiff), that the affidavit of (the defendant A. B.), filed on the — day of —, 18—, may be taken off the file of this Court, as being scandalous and impertinent; and that (the defendant A. B.), on whose part and behalf the said affidavit was filed, may be ordered to pay the costs of and occasioned by the said affidavit, and the costs of this application. And take notice, that the plaintiff will on the said motion read (&c., as in No. 53.)

67. Notice of motion, to take affidavit of the file, for scandal and impertinence (a).

## CHAPTER II.

### SECURITY FOR COSTS.

—:O:—

#### SECTION I.—APPLICATION FOR SECURITY.

*Title—and address: see ante, No. 54.*

The humble petition of the defendant A. B.

Showeth as follows:

1. The plaintiff has filed his bill in this cause against your petitioner [*Or*, The plaintiff has taken out an administration order in this cause against your petitioner].
2. The plaintiff by the said bill [*Or*, order] styles himself as of (*State where*): such place being out of the jurisdiction of this Honorable Court.

Your petitioner therefore humbly prays, that the plaintiff may be ordered to give the usual security to answer costs; and that, in the meantime, proceedings be stayed—*If there are other defendants, add: as against your petitioner.*

And your petitioner will ever pray, &c.

(a) *Kernick v. Kernick*, V. C. W. 22 Jan., 1884, Reg. Lib. A. 187: 12 W. R. 385, V. C. W. When the notice is to have the scandalous matter expunged under order 70, and the order is made, the officer in charge of the document expunges the obnoxious words, and writes opposite them "Scandal-expunged pursuant to order. Dated — day of —, 18—."

"A. B., C. R. and W., *Or*, D'y Reg'r."

(b) By C. G. Orders, 35 and 36, an order for security for costs may be obtained from any Deputy Registrar on proceipe, where it is an order of course.

68. Petition of course, for security for costs (b).

66.  
Notice of motion, or summons, for security for costs.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that the plaintiff [*Or, that C. D., the next friend of the plaintiff*] may be ordered, within (ten) days, to give the usual security to answer costs: he being described in the bill [*Or, administration order*] in this cause as of (*State where*); and that, in the meantime, proceedings be stayed—*If there are other defendants, add: as against the said defendant. And take notice, that on such motion will be read (&c., as in No. 53).*

70.  
The like, where residence is not correctly stated in bill or order.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that the plaintiff [*Or, that C. D., the next friend of the plaintiff*] may be ordered, within (ten) days, to give the usual security to answer costs, by reason of his place of residence or abode not being stated [*Or, correctly stated*] in the bill [*Or, administration order*] in this cause; and that, in the meantime, proceedings be stayed—*If there are other defendants, add: as against the said defendant. And take notice, that on such motion will be read (&c., as in No. 53).*

71.  
Notice of motion for security for costs of a proceeding by petition.

*Formal parts: see ante, No. 53).*

on the part of (the defendant) A. B., who has been served with the petition preferred by C. D. in this cause [*Or, matter*] on the —, 18—, that the said C. D. [*Or, that E. F., the next friend therein of the said C. D.*] may be ordered to give the usual security to answer costs; and that the said petition may stand over till such security is given. And take notice, that on such motion will be read (*&c, as in No. 53*).

In Chancery. } — the — day of —, in the —  
} year of the reign of Her Majesty Queen Victoria, and in the year of our Lord 18—.

72.  
Order for security for costs.

Between

and

Plaintiff,

Defendant.

Upon the application of the defendant —, and it appearing by — that the said plaintiff resides — out of the jurisdiction of this Court: It is ordered, that the plaintiff do procure some sufficient person or persons, resident within the jurisdiction of this Court, to give security on — behalf, in the penal sum of not less than — pounds, to answer the costs of the said defendant —, in case this Court shall think fit to award any — before the said defendant — shall be obliged to put in their answer to the — bill.

Entered

—, Registrar (*Or, Dep'y Registrar.*)

*Formal parts : see ante, No. 53.*

on the part of the defendant A. B. [Or, A. B., in the order dated the — day of —, 18— (*Order directing the security to be given*) named], that (*If the bond of an insufficient person has been given, say :* in lieu of, or in addition to, the bond of E. F., dated the —, 18—), the plaintiff [Or, C. D., in the said order named], may be ordered within (fourteen) days (c), pursuant to the order dated the —, 18— [Or, the said order], to procure some sufficient person on his behalf to give security by bond in the penalty of £100 [*or as may be*], conditioned to answer costs; and that, in the meantime, proceedings be stayed—*If there are other defendants or respondents, add :* as against the said A. B.

73.  
Notice of motion for (better) security to be given within a limited time.

And that in default of such security being given, the plaintiff's bill [Or, administration order—Or petition—of the said C. D., in the said order mentioned] may stand dismissed out of Court, without further order—*If there are other defendants or respondents add :* as against the said A. B.—with costs to be paid by the said C. D., to the said A. B. And take notice, that on such motion will be read (*&c.*, No. 53).

*Formal parts : see ante, No. 53.*

on the part of the defendant A. B. [Or, of A. B., in the order dated the — of —, 18— (*Order directing former security to be given*) named], that the plaintiff [Or, that C. D., in the said order named], may be ordered, within (fourteen) days, to procure some sufficient person on his behalf to give a new security to answer costs, in lieu of, or in addition to, the bond, dated the — of —, 18—, given pursuant to the said order by E. F., who has since died [Or, become insolvent—*or as may be*]; and that, in the meantime, proceedings be stayed—*If there are other defendants, add :* as against the said A. B.—*Or, in the case of a petition, say :* and that the said petition may stand over until such security is given. And take notice, that on such motion will be read (*&c.*, as in No. 53).

74.  
The like, for a new security to be given on death or insolvency of obligor.

*Formal parts : see ante, No. 12.*

1. E. F., the obligor in the bond dated the — of —, 18—, which was given as security for costs, pursuant to the order in this cause [Or, matter], dated the — of —, 18—, has since died [Or, has since become an insolvent].

2. The plaintiff [Or, A. B.], the person required by the said order to give security for costs, is still permanently resident at —, out of the jurisdiction of this Honorable Court [*or as may be*].

3. *Show means of knowledge.*

75.  
Affidavit in support.

(c) *Kennedy v. Edwards*, 11 Jur. N. S. 153, V. C. W.

Or, that  
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in this  
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add: as  
on such

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the said  
will be

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plaintiff,

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security  
— pounds,  
case this  
the said  
nswer to

Registrar.



## SECTION II.—GIVING SECURITY.

76.  
Bond as security  
for costs.

Know all Men by these presents, that I, A. B., of (*Place of residence, and addition*) am held and firmly bound [*Or, if two obligors, say: that we, A. B., of, &c., and C. D., of, &c., are jointly and severally held and firmly bound*] to E. F. (*Insert name of Record and Writ Clerk (d)*), Esquire, Clerk of Records and Writs of the Court of Chancery, in the penal sum of one hundred pounds [*or other sum mentioned in the order*], of good and lawful money of Canada, to be paid to the said E. F., his certain attorney, executors, administrators, or assigns: For which payment to be well and faithfully made, I bind myself, and my [*Or, we bind ourselves, and each of us, our and each of our*] heirs, executors, and administrators, firmly by these presents, sealed with my seal [*Or, with our seals*]. Dated this—day of—, 18—.

Whereas by an order of the Court of Chancery, dated the — day of —, 18—, and made in a cause wherein B. A. is plaintiff [*Or, B. A. and another—Or, others—are plaintiffs*], and D. C. is defendant [*Or, D. C. and another—Or, others—are defendants—Or, in a matter intituled, &c.*], on the application of (the defendant) G. H., It was ordered that (*Recite the mandatory part of the order directing the security to be given*): And whereas the above bounden A. B. hath [*Or, the above bounden A. B. and C. D. have*], at the request of the said (*Person required to give security*), agreed to enter into the above written obligation, subject to the condition hereinafter contained:

Now the condition of the above written obligation is such, that if the above bounden A. B., his [*Or, if the above bounden A. B. and C. D., or either of them, their or either of their*] heirs, executors, or administrators, do and shall well and truly pay, or cause to be paid, to—*If the bond is given to all the defendants, say: all the defendants in the said cause—If to less than all, or to respondents, name the particular defendants or respondents*—all such costs as the said Court shall think fit to award to the said defendants, or to any of them [*or as may be*], in the said cause [*Or, matter—or as may be*]: then the above written obligation is to be void; or else to remain in full force and virtue (e).

A. B. (Seal).  
(C. D. (Seal)).

Signed, sealed, and delivered by the above  
bounden A. B. (and C. D.), in the presence  
of,

B. A., of — (Residence) —.

(d) Where the order is issued by a Deputy Registrar, the bond will be to him by C. G. O., No. 531.

(e) The above forms of recital and condition will suit almost every case in which a

Whereas A. B. hath lately exhibited his bill of complaint in the Court of Chancery against D. C. (and E. F.) defendant [Or. defendants], touching the matters therein contained : <sup>77.</sup> Other forms of real and condition (f).

Now the condition of the above written obligation is such, that if the above bounden A. B. and C. D., or either of them, their or either of their heirs, executors, or administrators, do and shall well and truly pay or cause to be paid—*If the bond is given to all the defendants, say :* to the defendants in the said cause—*If to one, or to less than the whole, name the particular defendant or defendants*—all such costs as the said Court shall think fit to award to the said—*If the bond is given to one, add :* defendant—*If to all or several of the defendants add :* defendants, or to any or either of them—in the said cause, then the above written obligation is to be void ; or else to remain in full force and virtue.

(Signatures and attestation as in last Form.)

*Formal parts :* see ante, No. 52.

Take notice, that I have this day deposited with the Clerk of Records and Writs (Or, Deputy Registrar) the bond of A. B., of (Residence and addition as in bond—*If so*, and C. D., of, &c.), conditioned to answer costs, pursuant to the order dated the — of —, 18— (Order directing bond to be given). <sup>78.</sup> Notice of deposit of bond.

*Formal parts :* see ante, No. 52.

Take notice, that the plaintiff [Or, E. F., in the order dated the — of —, 18—, named], proposes A. B., of (Residence and addition—*If so*, and C. D., of, &c.), as a sufficient person [Or, sufficient persons] on his behalf, to give security, by bond, for costs, pursuant to the order dated the — of —, 18— [Or, said order]. <sup>79.</sup> Notice of name of proposed obligor.

*Formal parts :* see ante, No. 52.

Take notice, that A. B., in the bond [Or, notice] of the — of —, 18—, named, as surety for costs, is objected to by me, on the ground that he is not a sufficient person to give such security, in conformity with the order dated the — of —, 18—. <sup>80.</sup> Notice of objection to (proposed) obligor (g).

*Formal parts :* see ante, No. 12.

1. I am the obligor named in the bond dated the — of —, 18— [Or, if bond not yet given, say : I am the — of —, 18—]. <sup>81.</sup> Affidavit of (proposed) obligor, in justification (h).

bond for costs can be ordered to be given ; and are suggested as substitutes for Forms No. 77, which have long been in ordinary use, but only apply, in terms, to a bill suit.

(f) See Braithwaite's Pr. 581.

(g) *Ibid.* 35.

(h) *Ibid.*

be to him by  
in which a

person proposed by the plaintiff [*or as may be*] to give security on his behalf by bond] to the Record and Writ Clerk (*Or, Deputy Registrar*), in the penalty of £100 [*or as may be*], conditioned to answer costs in this cause [*Or, matter*], pursuant to the order of the —, 18—.

2. I am well and truly worth the sum of £200 (*i. e. double the amount of security directed*), of lawful money of Canada, over and above what is sufficient to pay all my just debts.

*Formal parts: see ante. No. 53.*

**52.**  
Notice of motion for leave to pay security and into Court, in lieu of bond (j).

on the part of the plaintiff [*Or, of A. B., in the order dated the — of —, 18— (Order directing security to be given) named — in lieu of the usual security directed to be given by the order dated the — of —, 18— [Or, by the said order, he may be at liberty, within (ten) days, to pay £100 [or as may be] into the bank, to the credit of, (Short title of suit—Or, Short title of matter), "Security for costs," to answer costs, in case any costs shall be awarded to be paid by him—Add, if desired; and that the interest thereof may be invested and accumulated. And take notice, that on such motion will be read (&c., as in No. 53.*

*Formal parts: see ante. No. 53.*

**53.**  
Notice of motion to discharge order for security. (j).

on the part of the plaintiff, that notwithstanding the order dated the — of —, 18—, directing security for costs to be given by him, he may be at liberty to amend his bill, by inserting his present residence: he being now resident at (*State where*), within the jurisdiction of this Honorable Court; and that thereupon the said order may be discharged. And take notice, that on such motion will be read (&c., as in No. 53.

### SECTION III.—ENFORCING SECURITY.

**54.**  
Notice of motion for leave to put in suit a bond for costs.

*Formal parts: see ante. No. 53.*

on the part of the defendant A. B. [*Or, of A. B., in the order dated the — of —, 18— (Order directing bond to be given), named —, that he may be at liberty to put in suit the bond dated the —, 18—, given pursuant to the order dated the — of —, 18—, [Or, the said order] by*

(j) Brathwaite Pr. 34. 1944. For order in like case, see *Jarvis v. Shand*, V. C. W. at Chambers, 30 Jan., 1864, Reg. Lib. A. 164. As to such payment by a limited company, see *Washoe Mining Co. v. Ferguson*, 2 Law Rep. Eq. 371, 377, V. C. W.

(j) *Mathews v. Chichester*, M. R. 25 July, 1861, Reg. Lib. B. 1797: 80 Beav. 185. At law, where security has been given under an order, by a plaintiff out of the jurisdiction, the security is not vacated by the return to the jurisdiction: see *Skene v. Davies*, 14 W. R. 776, Q. B.

C. D. to E. F., Esquire, the Clerk of Records and Writs, conditioned to answer costs; and, for that purpose, that the said bond may be delivered by the proper officer to the said A. B.; and that the said A. B. may be at liberty to make use of the name of the said E. F., on first giving him a proper indemnity: such indemnity to be settled by a Judge (Or, the Master at —), in case the parties differ. And take notice, that on such motion will be read (*&c.*, as in No. 53.)

In Chancery.

(Short title.)

Received the — of —, 18—, pursuant to the (foregoing) order dated the — of —, 18— (*Order to deliver out bond*), of E. F., Esquire, the Clerk of Records and Writs, the bond as security for costs therein mentioned.

55.  
Receipt for the bond, and undertaking to indemnify the obligee (*k*).

And we hereby undertake to save harmless and indemnify the said E. F. against the costs of, or relating to, any proceedings which may be taken in his name against C. D., the obligor in the said bond, to recover the costs thereby conditioned to be paid; and which costs have been taxed by the Taxing Master at the sum of \$— [*or as may be*].

G. H., of (*Signature and residence of the person on whose behalf the order for delivery out of the bond has been obtained*).

D. E., of (*Place of business*), solicitor for the said G. H.

Witness to the signatures of the said }

G. H. and D. E.

F. A., of (*Residence*).

(*k*) See Brathwaite's Pr. 536. On delivering out the bond, the Record and Writ Clerk requires a copy of the order directing such delivery to be left with him; and also a receipt and undertaking as above: which are usually written at the foot of the copy order: *ib*.

CHAPTER III.

PAUPERS.

—:O:—

56.  
Petition of  
course, for leave  
to prosecute a  
suit *in forma  
pauperis* (1)

Title—and address to the Judges : see ante, No. 54.

The humble petition of the plaintiff.

Showeth as follows :

1. *In a suit by bill* : Your petitioner, on the — of —, 18—, filed his bill in this cause against the above named defendant : thereby stating that (*Set forth, succinctly, the plaintiff's right to the matters in question, as it appears in the bill ; as thus* : A. B. lately died intestate ; that your petitioner claims to be one of his next of kin, and, as such, to be entitled to a distributive share of his personal estate ; and that the defendant is his legal personal representative) ; and praying that (*State the substance of the prayer ; as thus* : the usual accounts of the personal estate of the said A. B. may be taken ; and that such estate may be administered under the direction of this Honorable Court).

1. *In a suit by administration order* : On the — of —, 18—, notice of motion was served in this cause on behalf of your petitioner, as claiming to be one of the next of kin [*or as may be*] of the above named A. B., on the above named defendant, as his administrator, for the administration of the personal estate of the said A. B. [*or as may be*].

2. *State, shortly, the subsequent proceedings ; as thus* : The defendant has answered the said bill [*Or, appeared on the said motion*] ; but no further proceeding in the said cause has been had.

3. Your petitioner is not worth five pounds : his wearing apparel and the subject matter of this suit only excepted.

Your petitioner therefore humbly prays, that he may be at liberty to prosecute this suit *in forma pauperis* ; and that C. D., Esquire, who has subscribed this petition, thereby certifying your petitioner's just cause of suit, may be assigned as his counsel and solicitor.

And your petitioner will ever pray, &c.

I humbly conceive that this case is proper for relief in this Court.

57.  
Certificate of  
counsel  
subscribed  
thereto.

(Name of counsel.)  
—, 18—.

(1) For order in like case, see Seton, 1271, No. 6. The petition should be accompanied by an authentic copy of the bill or notice.

In Chancery.

(Title.)

55.  
Affidavit in support.

I, A. B., of, &c., the above named plaintiff, make oath and say, that I am not worth the sum of five pounds: my wearing apparel and the subject matter of this suit only excepted.

(Sworn (&c.: ante, No. 11).)

Formal parts: see ante, No. 53.

That the plaintiff A. B., the wife of (the defendant) C. D., may be at liberty to prosecute this suit [Or, if suit not instituted, say: to institute a suit against E. F. and others, for (State object; as thus: the administration of the personal estate of G. H.), and prosecute the same] in forma pauperis, without a next friend; and that D. C., Esquire, may be assigned as her counsel and solicitor. And take notice, that on such motion will be read (&c., as in No. 53).

56.  
Notice of motion for a married woman to sue in forma pauperis, without a next friend.

Formal parts: see ante, No. 11.

1. I am advised and verily believe that I have a proper case for relief in this Honorable Court in respect of (State object of proposed suit).

57.  
Affidavit in support (m).

2. The draft of the bill proposed to be filed by me to obtain such relief has been settled and signed by D. C., Esquire, barrister at law; and he has consented to act as my counsel and solicitor in such suit.

3. Show inability to obtain a next friend; as thus: I have applied to many of my friends and acquaintance, and made great exertions to induce some substantial person among them to act as my next friend in such suit; but I cannot prevail upon any person to consent to act as such next friend.

4. I am not worth the sum of five pounds: my wearing apparel and the subject matter of the said proposed suit excepted.

5. I am desirous to file the said bill, and prosecute the said suit in forma pauperis, without a next friend.

Title—and address to the Judges: see ante, No. 54.

The humble petition of the above named defendant C. D.

Showeth as follows:

58.  
Petition of course, for leave to defend in forma pauperis.

(m) The application must be accompanied by counsel's certificate of merits: ante, no. 57. If the bill has been filed, the statements must be varied accordingly.

1. *In a suit by bill:* The plaintiff has filed his bill in this cause against your petitioner—*If so:* who has filed his answer thereto (n).

2. *In a suit by administration order:* An administration order in this cause has been taken out on behalf of the above named plaintiff, against your petitioner—*If so:* who has filed his answer thereto.

3. Your petitioner is not worth five pounds: his wearing apparel and the subject matter of this suit only excepted.

Your petitioner therefore humbly prays, that he may be at liberty to defend this suit *in forma pauperis*; and that B. C., Esquire, may be assigned as his counsel and solicitor.

And your petitioner will ever pray, &c.

99.  
Affidavit in  
support.

The same as No. 90, *ante*, but substituting "defendant," for "plaintiff."

93.  
Notice of motion, to discharge order to sue or defend *in forma pauperis*.

*Formal parts: see ante, No. 53.*

on the part of (the defendant) A. B., that the order dated the —, 18—, on the application of (the plaintiff), whereby it was ordered that (the plaintiff) should be at liberty to prosecute this suit [*or as may be*] *in forma pauperis*, may be discharged. And take notice, that on such motion will be read (*&c.*, as in No. 53).

(n) The defendant need not answer before applying for the order.

## CHAPTER IV.

### NEXT FRIENDS.—GUARDIANS AD LITEM.

—:O:—

#### SECTION I.—OF INFANTS.

##### 1. Next Friends.

*Formal parts: see ante, No. 53.*

on the part of the infant plaintiff, by A. B., of (*residence and addition*), his next friend for the purpose of this application, that C. D., the plaintiff's next friend in this suit, may be removed; and that the said A. B., or some other proper person, may be approved as, and deemed to be such next friend, in lieu of the said C. D.; and that

94.  
Notice of motion, for removal of a next friend, and approval of another (c).

*If before decree:* the plaintiff's bill may be amended by inserting the name of the said A. B., or other person, as the plaintiff's next friend, instead of the name of the said C. D.

*Or, if after decree:* the said A. B., or other person, may be named in all future proceedings in this suit, as the plaintiff's next friend, in lieu of the said C. D. And take notice, that on such motion will be read (*&c., as in No. 53*).

*Formal parts: see ante, No. 53.*

on the part of the infant plaintiff, by A. B., his next friend, that he may be at liberty

*If before decree:* to amend his bill, by inserting the name of C. D., of (*residence and addition*), as his next friend, in lieu of the said A. B., who is desirous to retire.

*Or, if after decree:* to name C. D., of (*residence and addition*), as his next friend, in all future proceedings in this suit, in lieu of the said A. B., who is desirous to retire. And take notice, that on such motion will be read (*&c., as in No. 53*).

95.  
Notice of motion, to substitute a next friend for one desirous to retire.

*Formal parts: see ante, No. 53.*

On behalf of the infant plaintiff, by A. B., of (*residence and addition*), his next friend for the purpose of this application, that he may be at liberty

96.  
Notice of motion, to appoint a next friend for one deceased.

(c) The application must be supported by an affidavit of the grounds for the removal of the next friend, and of the fitness to act of the proposed substitute; and the consent of the latter to act must be shown.



*If before decree*: to amend his bill, by inserting the name of the said A. B. as his next friend, in lieu of C. D., now deceased.

*Or, if after decree*: to name the said A. B., as his next friend, in all future proceedings in this suit, in lieu of C. D., now deceased. And take notice, that on the said motion will be read (&c., as in No. 53).

An affidavit in support accompanies.

97.  
Petition of  
course for the  
like.

*Title—and address*: see ante, No. 54.

The humble petition of the infant plaintiff, by A. B., of (*residence and addition*), his next friend for the purpose of this application.

Showeth as follows:

*If before decree*: 1. Your petitioner, by C. D., his next friend, filed his bill in this cause against the defendants—*State the subsequent stages of the suit*; as thus: to which they put in their answers; and replication thereto has been filed [*Or, and this cause has been set down for hearing on motion for decree*]; but no decree has yet been made.

*Or, if after decree*: 1. Your petitioner, by C. D., his next friend, filed his bill in this cause against the defendants; and a decree was made therein on the — of —, 18—, whereby certain accounts and inquiries were directed to be taken and made; but the Master has not yet made his report of the result thereof [*or as may be*].

2. The said C. D. died on the —, 18—, and your petitioner is desirous that the said A. B. may be approved as his next friend, in lieu of the said C. D.

Your petitioner therefore humbly prays, that he may be at liberty (*Continue as in last Form to the end*).

And your petitioner will ever pray, &c.

98.  
Notice of mo-  
tion, to appoint  
a next friend  
for one incapa-  
citated or  
removed.

*Formal parts*: see ante, No. 53.

on the part of the infant plaintiff, by A. B., of (*residence and addition*), his next friend for the purpose of this application, that he may be at liberty

*If before decree*: to amend his bill by inserting the name of the said A. B. as his next friend, in lieu of C. D., who is incapacitated from acting [*Or, who by an order dated the — of —, 18—, has been removed*].

*Or, if after decree*: to name the said A. B. as his next friend, in all future proceedings in this suit, in lieu of C. D., who is incapacitated (&c., as above). And take notice, that on the said motion will be read (&c., as in No. 53).

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that a proper person may be approved as next friend of the plaintiff, in lieu of C. D., who has died [*Or, become incapable of acting—Or, been removed*]; and that

<sup>99.</sup> Notice of motion, by defendant, that a new next friend may be approved for plaintiff.

*If before decree:* the plaintiff's bill may be amended by adding the name of such person as the plaintiff's next friend, in lieu of the said C. D.

*Or, if after decree:* such person may be named as the plaintiff's next friend, in all future proceedings in this suit, in lieu of the said C. D. And take notice that on such motion will be read (*&c., as in No. 53.*)

*Title—and address: see ante, No. 54.*

The humble petition of the defendant A. B., an infant, by C. D., of (*residence and addition*), his next friend.

<sup>100.</sup> Petition of course, for the like.

Showeth as follows:

1. The plaintiff has filed his bill in this suit against your petitioner: who has filed his answer thereto.

The said C. D. has no interest in this suit adverse to petitioner; and is a proper person to be assigned his *in ad litem*.

Your petitioner therefore humbly prays, that the said C. D. may be assigned his guardian, by whom he may defend this suit.

And your petitioner will ever pray, &c.

In Chancery.

(*Title.*)

I, E. F., of (*Place of business*), gentleman, the solicitor in this suit for the defendant A. B., make oath and say, as follows:

<sup>101.</sup> Affidavit in support of motion or petition (*p.*)

1. The defendant A. B. is under the age of twenty-one years; and he has been served with a copy of the plaintiff's bill in this suit, and has filed his answer thereto.

2. I know and am well acquainted with C. D., of (*residence and addition, as in motion paper or petition*), the person proposed to be assigned the guardian of the said A. B., by whom he may defend this suit.

3. The said C. D. is (*State degree of relationship to, or connection with the family of, the infant; as thus:* the maternal

(*p.*) The solicitor must swear that the proposed guardian has no adverse interest; but where he is unable to depose to all or some of the other facts, another deponent can be joined, and the affidavit varied accordingly.

uncle of the said A. B.); and has no interest in the matters in question in this suit adverse to the interest therein of the said A. B.; and in my judgment and belief the said C. D. is a fit and proper person to be assigned such guardian as aforesaid.

4. *Show means of knowledge.*

Sworn, &c.

*Formal parts: see ante, No. 53.*

102.  
Notice of motion, by defendant, for a guardian to be assigned him, in lieu of one deceased.

To move on behalf of the defendant A. B., an infant, by C. D., of (*residence and addition*), his next friend, that the said C. D. may be assigned his guardian, by whom he may defend this suit, in lieu of G. H., now deceased. And take notice (*as in No. 53*).

An affidavit in support accompanies.

103.  
Petition of course, for the like.

*Title—and address: see ante, No. 54.*

The humble petition of the defendant A. B., an infant, by C. D., of (*residence and addition*), his next friend.

Showeth as follows:

1. The plaintiff filed his bill in this suit against your petitioner: who has filed his answer thereto; and by an order dated the — of —, 18—, G. H. was assigned his guardian *ad litem*.

2. The said G. H. died on the — of —, 18—.

3. The said C. D. has no interest in the subject matter of this suit adverse to your petitioner, and is a proper person to be assigned his guardian *ad litem*.

Your petitioner therefore humbly prays, that the said C. D. may be assigned his guardian, by whom he may defend this suit, in lieu of the said G. H.

And your petitioner will ever pray, &c.

104.  
Affidavit in support of motion or petition.

In Chancery.

(*Title.*)

I, E. F., (&c., *as in ante*, No. 101):

1. G. H., who, by an order dated the — of —, 18—, was assigned the guardian *ad litem* of the defendant A. B. in this suit, died on the — of —, 18—; and no person has since been assigned such guardian.

2. The said A. B. is still under the age of twenty-one years.

3. I know and am well acquainted (&c., *continue as in para. 2 of No. 101 ante, to the end of that Form.*)

*Formal parts : see ante, No. 53.*

On behalf of A. B., an infant, by C. D., of (*residence and addition*), his next friend : who has been served with a copy of the petition, preferred on the — of —, 18—, by D. A. and others in this cause [*Or, matter*] : that the said C. D. may be assigned his guardian, by whom he may appear upon the said petition. And take notice (*&c., as in No. 53.*)

105.  
Notice of motion, for a guardian to be assigned an infant, as respondent to a petition.

The copy of the petition, and an affidavit in support of the motion, accompany.

*Title—and address : see ante, No. 54.*

The humble petition of A. B., an infant, by C. D., of (*residence and addition*), his next friend.

106.  
Petition of course, for the like.

Showeth as follows :

1. Your petitioner has been served with a copy of the petition preferred on the — of — 18—, by D. A. and others in this cause [*Or, matter*].

2. The said C. D. has no interest in the matters in the said petition referred to adverse to that of your petitioner; and is a proper person to be assigned his guardian on the said petition.

Your petitioner therefore humbly prays, that the said C. D. may be assigned the guardian of your petitioner, by whom he may appear upon the said petition.

And your petitioner will ever pray, &c.

In Chancery.

(*Title.*)

I, G. H., of (*Place of business*), gentleman, the solicitor in this cause [*Or, matter*] for A. B., make oath and say, as follows :

107.  
Affidavit in support of motion or petition.

1. The said A. B. has been served with a copy of the petition preferred on the — of —, 18—, by D. A. and others in this cause [*Or, matter*].

2. The said A. B. is under the age of twenty-one years.

3. I know and am well acquainted with C. D., of (*residence and addition*), the person proposed to be assigned the guardian of the said A. B., by whom he may appear upon the said petition.

4. The said C. D. is (*State degree of relationship to, or connection with the family of, the infant, as : the paternal uncle of the said A. B.*) ; and has no interest in the matters in the said petition referred to adverse to the interest of the said

A. B.; and in my judgment and belief the said C. D. is a fit and proper person to be assigned such guardian as aforesaid.

5. *Show means of knowledge.*

Sworn, &c.

108.  
Notice of motion, for removal of a guardian, and appointment of another.

*Formal parts: see ante, No. 53.*

on the part of (the defendant) A. B., an infant, by C. D., of (residence and addition), his next friend for the purpose of this application, that E. F., the guardian *ad litem* of the said A. B., assigned by an order dated the — of —, 18—, may be removed; and that the said C. D., or some other proper person, may be assigned such guardian in lieu of the said E. F. And take notice, that on such motion will be read (&c., as in No. 53).

109.  
Notice of motion, by plaintiff, that a guardian may be assigned defendant.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that one of the solicitors of this Honorable Court, or some other proper person, may be assigned the guardian of the defendant A. B., an infant, by whom he may (appear to and) defend this suit. And take notice, that on such motion will be read (&c., as in No. 53).

110.  
Affidavit in support of motion to appoint guardians *ad litem*.

In Chancery.

(Style of cause.)

*Formal parts: see ante, No. 11.*

1. I knew the late A. B., of the City of Hamilton, (Esquire,) in the bill of complaint in this cause named, and am acquainted with his family.

2. The said A. B. departed this life some time in the month of —, 18—, leaving him surviving the above named defendant C. B. his widow, and the defendants E. B., F. B., and G. B., his children and heirs-at-law.

3. The said E. B., F. B. and G. B., are all infants within the age of twenty-one years, and of the ages of six, four, and two years respectively, and are at present residing with and under the care of their mother, the said defendant C. B. (Or, their uncle—Or, with —, as the case may be), at —.

111.  
Order appointing guardian *ad litem*.

In Chancery.

} — the — day of —, in the —  
} year of the reign of Her Majesty Queen Victoria, and in the year of our Lord, 18—.

Between

Upon the application of the plaintiff —, and upon hearing read the affidavit of service of the bill of complaint

herein; and an affidavit of the service of notice of this motion; and it appearing that the said defendant is an infant under the age of twenty-one years: It is ordered that — one of the solicitors of this Court, be, and he is hereby appointed guardian to the said infant defendant, by whom he may answer the plaintiff's bill and defend this suit (*Or*, by whom he may appear and defend this suit.

Entered.

\_\_\_\_\_, Registrar (*Or*, Dep'y Registrar).

## SECTION II.—OF IDIOTS, LUNATICS, AND PERSONS OF WEAK MIND.

### 1. Next Friends.

*Formal parts: see ante*, No. 53.

on the part of the plaintiff, a person of unsound mind not so found, by A. B., of (*residence and addition*), his next friend for the purpose of this application, that C. D., the plaintiff's next friend in this suit, may be removed; and that (*Continue as in No. 94, ante, to the end*).

112.  
Notice of motion, for removal of a next friend, and approval of another (q).

### 2. Guardians ad litem.

*Formal parts: see ante*, No. 53.

On behalf of the defendant A. B., a person of unsound mind so found, by C. D., of (*residence and addition*), his next friend, that the said C. D. may be assigned his guardian by whom he may defend this suit: his committee, the defendant E. F., having an adverse interest.

An affidavit in support accompanies.

113.  
Notice of motion, by a defendant found to be of unsound mind, for a guardian to be assigned him, where his committee is adversely interested.

*Title—and address: see ante*, No. 54.

The humble petition of the defendant A. B., a person of unsound mind so found, by C. D., of (*residence and addition*), his next friend.

114.  
Petition of course, for the like.

Showeth as follows:

1. The plaintiff has filed his bill in this suit against your petitioner: who has answered the same.

(q) The practice as to the removal and appointment of next friends of idiots, lunatics, and persons of weak mind, is the same, *mutatis mutandis*, as the practice in the case of infants: and such of the forms in Section I. as are not included in this section can be readily adapted.

2. Your petitioner has, by proceedings in lunacy, been found to be a person of unsound mind; and the defendant E. F. has been appointed and is now the committee of your petitioner's estate.

3. The said E. F. has an interest in the matters in question in this suit adverse to the interest of your petitioner.

4. The said C. D. has no interest in this suit adverse to your petitioner; and is a proper person to be assigned his guardian *ad litem*.

Your petitioner therefore humbly prays, that the said C. D. may be assigned his guardian, by whom he may defend this suit.

And your petitioner will ever pray, &c.

115.  
Affidavit in  
support of motion (r).

In Chancery.

(Title.)

I, G. H., of (*Place of business*), gentleman, the solicitor in this cause for the defendant A. B., make oath and say, as follows:

1. The defendant A. B., has been served with a copy of the plaintiff's bill in this suit, and has answered the same.

2. The said A. B. has, by proceedings in lunacy, been found to be a person of unsound mind; and the defendant E. F. has been appointed and is now the committee of his estate.

3. The said E. F. has an interest in the matters in question in this suit adverse to the interest of the defendant A. B.

4. I know and am (*Continue as in No. 101, para. 2, ante, to the end of that Form*).

116.  
Notice of motion, by a defendant of unsound mind not so found, for a guardian to be assigned him.

*Formal parts: see ante, No. 53.*

On behalf of the defendant A. B., a person of unsound mind not so found, by C. D., of (*residence and addition*), his next friend, that the said C. D. may be assigned his guardian, by whom he may defend this suit.

An affidavit in support accompanies.

117.  
Petition of course, for the like.

*Title—and address: see ante, No. 54.*

The humble petition of the defendant A. B., a person of unsound mind not so found, by C. D., of (*residence and addition*), his next friend.

Showeth as follows:

(r) The solicitor must swear that the proposed guardian has no adverse interest; but where he is unable to depose to all or some of the other facts, another deponent can be joined, and the affidavit varied accordingly.

1. The plaintiff has filed (*Continue as in No. 100, ante, to the end*).

In Chancery.

(*Title.*)

We, E. F., of (*Place of business*), gentleman, the solicitor in this cause for the defendant A. B., and B. E., of (*State place of residence, and add qualification to practise as a medical man*), severally make oath and say, as follows:

118.  
Affidavit in support of motion or petition.

And first I the said E. F. for myself say:

1. The said A. B. has been served with a copy of the plaintiff's bill in this suit; and has answered the same.

2. 3. I know and am (*Continue as in ante, No. 101, para. 2, to the end of para. 3*).

4. The said A. B. has not been found of unsound mind by inquisition, or other proceeding in lunacy [*or as may be*].

5. *Show means of knowledge.*

And I the said B. E. for myself say:

6. I have been in actual practice as a physician [*or as may be*] for — years last past; and I have for — years last past professionally attended the above named A. B. [*or as may be*].

7. I personally examined the said A. B. on the — day of —, 18—, at (*State where*), and on several previous occasions [*or as may be*], for the purpose of ascertaining his state of mind.

8. From such my examination of the said A. B., I am decidedly of opinion that he is of unsound mind, and wholly incapable of the management of himself or his affairs, or of the care of his property; and I have formed such opinion from (*State the grounds*).

Sworn, &c.

*Formal parts: see ante, No. 53.*

(*Continue as in ante, No. 116, to the end; and add: in lieu of B. D., now deceased.*)

An affidavit in support accompanies.

119.  
Notice of motion, by defendant, for a guardian to be assigned him, in lieu of one deceased.

*Title—and address: see ante, No. 54.*

The humble petition of the defendant A. B., a person of unsound mind not so found, by C. D., of (*residence and addition*), his next friend.

120.  
Petition of course, for the like.

Showeth as follows:

1. The plaintiff filed (*Continue as in No. 103, ante, to the end*).

interest;  
deponent



191.  
Affidavit in  
support of motion or petition.

In Chancery.  
(Title.)

We, E. F., of (*Describe the deponents, as in No. 118*), severally make oath and say, as follows:

And first I the said E. F. for myself say:

1. G. H., who, by an order in this cause dated the — of —, 18—, was assigned the guardian *ad litem* of the defendant A. B., died on the — of —, 18—, and no person has since been assigned such guardian.

2. 3. I know and am (*Continue as in No. 101, para. 2, ante, to the end of para. 3*).

4. Tho said A. B. has not (*Continue as in No. 118, para. 4, ante, to the end of that Form*).

Sworn, &c.

192.  
Notice of motion, for a guardian to be assigned a person of unsound mind not so found, as respondent to a petition.

Formal parts: see ante, No. 53.

On behalf of A. B., a person of unsound mind not so found, by C. D., of (*residence and addition*), his next friend: who has been served with the petition preferred on the — of —, 18—, by D. A. and others in this cause [*Or, matter*]: that the said C. D. may be assigned the guardian of the said A. B., by whom he may appear upon the said petition.

An affidavit in support accompanies.

193.  
Petition of course, for the like.

Title—and address: see ante, No. 54.

The humble petition of A. B., a person of unsound mind not so found, by C. D., of (*residence and addition*), his next friend.

Showeth as follows:

1. Your petitioner has been served with (*Continue as in No. 106, ante, to the end*).

194.  
Affidavit in support of motion or petition.

In Chancery.  
(Title.)

We, E. F., of (*Place of business*), gentleman, the solicitor in this cause [*Or, matter*] for A. B. hereinafter named, and B. E., of (*residence and description of a medical man: see No. 118, ante*), severally make oath and say, as follows:

And first I the said E. F. for myself say:

1. The said A. B. has been served with a copy of the petition preferred on the — instant [*Or, last*], by D. A. and others in this cause [*Or, matter*].

2. 3. I know and am (*Continue as in No. 107, para. 3, ante, to the end of para. 4.*)

4. The said A. B. has not (*Continue as in No. 118, para. 4, ante, to the end of that Form.*)

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that one of the solicitors of this Honorable Court, or some other proper person, may be assigned the guardian of the defendant A. B., a person of unsound mind not so found, by whom he may (appear to and) defend this suit. And take notice, that on such motion will be read (&c., as in No. 53).

125.  
Notice of motion, by plaintiff, that a guardian may be assigned a defendant.

In Chancery.

(*Title.*)

We, E. F., of (*Place of business*), gentleman, the solicitor in this cause for the plaintiff [*or as may be*], and B. E., of (*residence and description of a medical man: see No. 118, ante*), severally make oath and say, as follows:

126.  
Affidavit in support, where no appearance has been entered by the defendant.

And first I the said E. F. for myself say:

1. On the (*Prove service of copy bill, as in No. 42, ante*).

2. On the — day of —, 18—, I served C. D., of (*residence and addition*): who is the person with whom, or under whose care, the said defendant A. B. was at the time of serving him as aforesaid with the said copy of the bill: with a notice in writing intituled in this cause, and purporting that this Honorable Court would (&c., *Recite the notice*), by delivering a true copy of the said notice to, and leaving the same with, the said C. D. personally at (*State where*)—Or, with the wife—Or, son—Or, daughter—Or, servant—of the said C. D., at his dwelling-house situate at (*State where*).

3. The said A. B. has not been found of unsound mind by inquisition, or other proceeding in lunacy [*or as may be*].

4. *Show what applications have been made to the defendant's relations to undertake his defence.*

5. *Show means of knowledge.*

And I the said B. E. for myself say:

6. I have been in actual practice as a physician [*or as may be*] for — years last past.

7. *Show that the defendant is of unsound mind, and the deponent's means of knowledge—see No. 118, ante.*

Sworn, &c.

*Commence as in last Form to:* And first I the said E. F. for myself say:

127.  
Affidavit in support, after such appearance.

1. On the (*Prove service of notice of motion*).
2. The said A. B. has not (*Continue as in No. 126, para. 3, ante, to the end of that Form*).

128.  
Notice of motion, by plaintiff or defendant, to discharge order assigning guardian.

*Formal parts: see ante, No. 53.*  
on the part of the plaintiff [*Or, defendant A. B.*], that the order dated the — of —, 18—, whereby it was ordered that (*Recite so much of it as assigns a guardian*), may be discharged. And take notice that on such motion will be read &c., as in No. 53).

### SECTION III.—OF MARRIED WOMEN.

#### 1. Next Friends.

129.  
Notice of motion, by a married woman plaintiff, to substitute a next friend.

*Formal parts: see ante, No. 53.*  
on the part of the plaintiff A. B., by C. D., of (*residence and addition*), her next friend for the purpose of this application, that she may be at liberty

*If before decree:* to amend her bill, by inserting the name of the said C. D. as her next friend, in lieu of E. F., her present next friend.

*Or, if after decree:* to name the said C. D. as her next friend, in all future proceedings in this suit, in lieu of E. F., her present next friend. And take notice, that on such motion will be read (&c., as in No. 53).

130.  
Order, on application by an adult married woman co-plaintiff, to change her next friend, after decree.

*Title*—Upon the application of the plaintiff A. S. F., by C. T. her next friend for this purpose, and upon hearing the solicitors for the applicant, and for the (other) plaintiffs, and for the defendants, and upon reading the decree dated, &c., and an affidavit of the said A. S. F., filed, &c., It is ordered that upon C. T., of, &c., giving security, to be approved of by (the Master at —), to answer the defendants' costs to this time, and their costs (if any) to be hereafter awarded, the plaintiff A. S. F. be at liberty to name the said C. T. as her next friend in this cause, in the room of (the said) S. G., her present next friend: with liberty for the said S. G. to make such application as he may be advised as to the payment of the plaintiffs' costs of this cause to this time.

*Formal parts: see ante, No. 53.*

On the part of the plaintiff L. K., now L. H., the wife of W. H., of (*residence and addition*), and of the infant plaintiff E. C. M., by J. C., of (*residence and addition*), their next friend for the purpose of this application, that the plaintiffs may be at liberty to name the said J. C. as the next friend of the said plaintiff E. C. M., in the place of the said plaintiff L. K., now L. H., her present next friend, and also as the next friend of the said plaintiff L. K., now L. H.

131.  
Notice of motion, on marriage of a female plaintiff, the next friend of the infant co-plaintiff, to appoint a next friend of both plaintiffs.

## 2. *Guardians ad litem.*

*Formal parts: see ante, No. 53.*

On behalf of the defendant A. B., the wife of (the defendant) C. B., by the said C. B. [*Or, by E. F., of (residence and description)*], her next friend, that the said C. B. [*Or, E. F.*] may be assigned her guardian, by whom she may defend this suit: she being under age.

132.  
Notice of motion, by infant wife, for a guardian to be assigned her.

*Title—See ante, No. 54.*

The humble petition of the defendant A. B., wife of (the defendant) C. B., and an infant under the age of twenty-one years, by the said C. B. [*Or, by E. F., of (residence and addition)*], her next friend.

133.  
Petition of course, for the like.

Showeth as follows:

1. The plaintiff has filed (*Continue as in No. 100, para. 1, ante, to the end of that Form*).

In Chancery.

(*Title.*)

I, G. H., of (*Place of business*), gentleman, the solicitor in this cause for the defendant A. B., make oath and say, as follows:

134.  
Affidavit in support of motion or petition.

1. The defendant A. B. is the wife of the defendant C. B. [*Or, of C. B., of, &c.*]; and she has been served with a copy of the plaintiff's bill in this suit, and has answered the same.
2. The said A. B. is under the age of twenty-one years.
3. 4. 5. I know and am (*Continue as in No. 101, para. 2, ante, to the end of that Form*).

## CHAPTER V.

### THE BILL.

—:O:—

#### SECTION I.—FORM OF THE BILL.

The following forms of bills are those referred to in Order 75, and compose Schedule B mentioned in that order:

#### SCHEDULE B.

*Forms of Bills, referred to in Order 75.*

**135.**  
Bill for fore-  
closure or sale.

1. By a legal or equitable mortgagee, or person entitled to a lien as a security for a debt, seeking foreclosure or sale, or otherwise to enforce his security.

In Chancery.

Between—A. B.....Plaintiff.  
and  
C. D.....Defendant.

City of Toronto.

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of A. B., of the City of Toronto, in the County of York, Merchant;

Sheweth as follows:

1. Under and by virtue of an Indenture (or other document), dated, &c., and made, &c., (and a transfer thereof, made by indenture, dated, &c., and made, &c.) the plaintiff is a mortgagee (or, an equitable mortgagee) of (or, is entitled to hold a lien upon) certain freehold property (or leasehold, or other property, as the case may be) therein comprised, being (insert a general description of the property), for securing the sum of \$— and interest:

2. The time for payment has elapsed, and no sum has been paid on account of principal or interest, (or, \$— has been paid on account of principal, and \$— on account of interest).

3. There is now due under and by virtue of the said Indenture of mortgage, for principal money the sum of \$—, and for interest the sum of \$—.

4. The plaintiff has not been in occupation of the said mortgaged premises, or of any part thereof, (or, the plaintiff

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has been in the occupation of the premises, or of some part thereof, from the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ to the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_).

5. The defendant C. D. is entitled to the equity of redemption in the said lands (or, the premises subject to such lien).

The plaintiff therefore prays:

That he may be paid the said sum of \$ \_\_\_\_\_, and interest thereon, and the costs of this suit; and in default thereof, that the equity of redemption in the said lands may be foreclosed.

(Or, that in default thereof the said mortgaged premises may be sold and the produce thereof applied in or towards payment of the said debt and costs.)

(That the defendant C. D. may be ordered to pay the balance of the said mortgaged debt and costs after deducting the amount realized by such sale).

That for the purposes aforesaid all proper directions may be given and accounts taken.

That the plaintiff may have such further or other relief as the nature of the case may require.

And the plaintiff will ever pray.

2. By a person entitled to the redemption of any legal or equitable mortgage, or any lien, seeking to redeem the same. <sup>136.</sup> Bill for redemption.

In Chancery.

Between—A. B ..... Plaintiff,  
and  
C. D. .... Defendant.

City of Toronto.

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of A. B., &c.

Sheweth as follows:

1. Under and by virtue of an Indenture (or other document) bearing date, &c., and made between (parties) the plaintiff is entitled to the equity of redemption in certain freehold property comprised, being (insert description of property) which was originally mortgaged for securing the sum of \_\_\_\_\_ and interest thereon.

2. The defendant C. D., is now, by virtue of the said Indenture, dated the \_\_\_\_\_ day of &c., the mortgagee of the said lands, and entitled to receive the principal money and interest remaining due upon the said mortgage.

3. The amount of principal money and interest now due upon the said mortgage is the sum of ——— or thereabouts.

4. The plaintiff has made, or caused to be made, an application to the said C. D., to receive the sum of ———, and any costs justly payable to him and re-convey the said mortgaged property to the plaintiff upon payment thereof, and of any costs due to him in respect of the said security, but the said C. D. has not so done.

The plaintiff therefore prays:

That he may be let in to redeem the said mortgaged property, and that the same may be re-conveyed to him upon payment of the principal money and interest and costs due and owing upon the said mortgage.

That for the purposes aforesaid all proper directions may be given and accounts taken.

That the plaintiff may have such further or other relief as the nature of the case may require.

And the plaintiff will ever pray.

**137.**  
Bill to wind up  
partnership.

3. By a person entitled to an account of the dealings and transactions of a partnership dissolved or expired, seeking such account.

In Chancery.

Between—A. B.....Plaintiff,

and

C. D.....Defendant.

City of Toronto.

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of A. B., &c.

Sheweth as follows:

1. From the ——— day of ——— down to the ——— day of ——— the plaintiff and the defendant C. D., carried on the business of ——— in partnership under certain articles of co-partnership dated, &c., and made between ——— [parties], [or under a verbal agreement made between the plaintiff and C. D., or through their respective agents E. F. and G. H.]

2. The said co-partnership was dissolved (or expired) on the ——— day of ———.

The plaintiff therefore prays:

That on account of the partnership dealings and transactions, between the

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plaintiff and the said C. D., may be taken, and the affairs and business of the said partnership wound up and settled under the direction of this Honorable Court.

That for the purposes aforesaid all proper directions may be given and accounts taken.

That the plaintiff may have such further or other relief as the nature of the case may require.

And the plaintiff will ever pray.

4. For dissolution of co-partnership.

138.  
Bill to dissolve  
partnership.

In Chancery.

Between—A. B.....Plaintiff,  
and  
C. D ....Defendant.

City of Toronto.

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of A. B., &c.

Sheweth as follows:

1. The plaintiff and the defendant C. D., are and have been since the \_\_\_\_\_ day of \_\_\_\_\_ co-partners in the trade or business of \_\_\_\_\_ under \_\_\_\_\_ articles of co-partnership dated, &c., and made between, &c. (or, under a verbal agreement made, &c.) which partnership was to continue for \_\_\_\_\_ years (or for an indefinite time)

2. The said business was carried on under the said agreement until \_\_\_\_\_ without any difficulty warranting dissolution.

3. From the last mentioned day until the present time the said C. D. has greatly misconducted himself in the said business, by removing the books of the co-partnership from the shop or counting-house of the firm, and denying the plaintiff or debarring him from access thereto, by discharging the Clerks and servants of the said firm and engaging others in his own interest in their room; by making false entries in the said books, or improperly keeping the same.

4. The said defendant has also used the name of the firm for his own private purposes, and has applied the moneys of the partnership to his own individual use.

5. There is nothing in the said articles or agreement of co-partnership to justify such conduct on the part of the defendant.



6. The plaintiff has made frequent applications to the said defendant to desist from such conduct and to act in accordance with the said agreement and with his duty as a partner, but without effect.

7. The plaintiff, on the — day of — gave notice to the said defendant that the said partnership would be dissolved from the — day of —.

The plaintiff therefore prays :

That the said partnership may be dissolved, and that the accounts of the said business may be taken from the commencement thereof, and the affairs thereof wound up and adjusted.

That the plaintiff may have such further or other relief as the nature of the case may require.

And the plaintiff will ever pray.

**139.**  
Bill for specific  
performance of  
agreement for  
sale or purchase  
of property.

5. Bill by a person entitled to the specific performance of an agreement for the sale or purchase of any property, seeking such specific performance.

In Chancery.

Between—A. B.....Plaintiff,  
and  
C. D.....Defendant.

City of Toronto

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of A. B., &c.

Sheweth as follows :

1. By an agreement dated the — day of — and signed by the defendant C. D. the said defendant contracted to buy of the plaintiff (or to sell him) certain freehold (or leasehold) property therein described or referred to, for the sum of —.

2. The plaintiff has made, or caused to be made, to the said C. D. application specially to perform the said agreement on his part, but he has not done so.

The plaintiff therefore prays :

That the said agreement may be specially performed, and for that purpose that all proper directions may be given, the plaintiff hereby offering to perform the said agreement on his part.

That the plaintiff may have such further or other relief as the nature

of the case may require.  
And, &c.

6. Bill for the specific performance of a parol agreement partly performed.

140.  
Bill for specific performance of parol agreement partly performed.

In Chancery.

Between—A. B.....Plaintiff,  
and  
C. D.....Defendant.

City of Toronto.

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of C. B., &c.

Sheweth as follows:

1. The defendant C. D. being or pretending to be seised in fee simple in possession of lot No —, in, &c., the plaintiff and the said C. D. on or about the — day of — entered into a verbal agreement for the purchase by the plaintiff of the said lot of land at or for the price or sum of — payable, &c., with interest, and upon payment thereof a proper conveyance was to be executed of the said premises free from incumbrances.

2. The plaintiff was accordingly admitted and entered into possession of the said lot, and has continued in possession thereof ever since and is still in possession thereof.

3. The plaintiff has made divers and considerable improvements thereon and has paid the sum of —, part of the said purchase money.

4. The plaintiff submits that under the circumstances aforesaid the said agreement has been partly performed so as to entitle the plaintiff to a specific execution thereof.

5. The plaintiff made and caused to be made frequent applications to the said C. D. for the purpose of obtaining a specific execution of the said agreement, but without effect.

The plaintiff therefore prays:

That the said contract may be specifically performed by the said C. D., the plaintiff being ready and willing and hereby offering to perform the same in all respects upon his part.

That the plaintiff may have such further or other relief as the nature of the case may require.

And, &c.

7. Bill to stay waste.

141.  
Bill to stay waste.

In Chancery.

Between—A. B.....Plaintiff,  
and  
C. D.....Defendant.

City of Toronto.

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of A. B., &c.

Sheweth as follows:

1. The plaintiff is and has been from before the acts hereinafter complained of until the present time seised in fee simple (*or as the case may be*) under and by virtue of an Indenture &c., bearing date, &c., and made between &c., of lot No —, &c.

2. The defendant C. D. is in possession of the said lot as tenant for a term of — years (*or as the case may be*) of the plaintiff under and by virtue of an Indenture of demise, &c., bearing date &c., and made between, &c.

3. The said defendant has since the — day of — committed waste upon the said lot by cutting down and removing from off the said lot and applying to his own use a large number of the timber and other trees standing, growing, and being thereon, and also by quarrying a large quantity of stone being on and part of the said lot and by pulling down, &c., houses, &c.

4. The defendant continues and threatens and intends to continue to commit such waste as aforesaid, and other waste and destruction of the said lot, although frequently requested by the plaintiff to desist therefrom.

The plaintiff therefore prays:

That the said C. D. may be restrained by the order and injunction of this Honorable Court from committing such waste as aforesaid, or any other waste, spoil, or destruction on the said premises, and may account for the waste already committed.

That the plaintiff may have such further or other relief as the nature of the case may require.

And, &c.

149.  
Bill to stay trespass in the nature of waste. In Chancery.

§. Bill to stay trespass in the nature of waste.

Between—A. B.....Plaintiff,  
and  
C. D.....Defendant.

City of Toronto.

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of A. B., &c.

Showeth as follows :

1. The plaintiff was at the time of the acts hereinafter complained of and has been since up to the present time the owner in fee simple (or as the case may be) in possession of lot No. &c., under and by virtue of an Indenture, &c., and made, &c.

2. The defendant C. D. has from the ——— day of ——— until the present time continually trespassed upon the said lot by cutting down and removing from off the said lot and applying to his own use divers valuable timber and other trees which were growing, standing, and being on the said lot.

3. The defendant continues and threatens and intends to continue to trespass on the said lot in like manner although frequently requested by the plaintiff to desist therefrom.

The plaintiff therefore prays :

That the said defendant may be restrained by the order and injunction of this Honorable Court from committing the acts aforesaid, and other acts of a like nature, and may account for the value of the timber and other trees cut down, removed and applied to his own use as aforesaid.

That the plaintiff may have such further or other relief as the nature of the case may require.

And, &c.

9. Bill by a person entitled to an equitable estate or interest and claiming to use the name of his trustee in prosecuting an action for his sole benefit.

143.  
Bill to use name  
of trustee in  
prosecuting an  
action.

In Chancery.

Between—A. B. .... Plaintiff,

and

C. D. .... Defendant.

City of Toronto.

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of A. B., &c.

Sheweth as follows :

1. Under an Indenture dated, &c., and made between, &c., plaintiff is entitled to an equitable estate or interest in cer-

tain property therein described or referred to, and the defendant C. D. is a trustee for the plaintiff of the said property.

2. The plaintiff being desirous to prosecute an action at law against ——— in respect of such property, has made, or caused to be made, an application to the said defendant to allow the plaintiff to bring such action in his name and has offered to indemnify the defendant against the costs of such action.

3. The said defendant refuses to allow his name to be used by the plaintiff for the purposes of the said action.

The plaintiff therefore prays:

That he may be allowed to prosecute the said action in the name of the said defendant C. D., the plaintiff hereby offering to indemnify him against the costs of such action.

That the plaintiff may have such further or other relief as the nature of the case may require.

And, &c.

**144.**  
Bill to appoint  
new trustee.

**10.** Bill by a person entitled to have a new trustee appointed in a case where there is no power in the instrument creating the trust to appoint new trustees, or where the power cannot be exercised, and seeking to appoint a new trustee.

In Chancery.

Between—A. B.....Plaintiff,  
and  
C. D.....Defendant.

City of Toronto.

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of A. B., &c.

Sheweth as follows:

1. Under an Indenture dated, &c., and made between, &c., (or the will of,) the plaintiff is interested in certain trust property therein mentioned or referred to.

2. The defendant C. D. is the present trustee (or the real or personal representative of the last surviving trustee) of such property.

3. There is no power in the said Indenture (or will, &c.) to appoint new trustees (or the power in said will, &c., to appoint new trustees cannot be exercised).

The plaintiff therefore prays:

That the new trustees may be of the said trust property appointed in

the place of (or to act in conjunction with) the said C. D.

That the plaintiff may have such further or other relief as the nature of the case may require.

And, &c.

## 2. *Forms of Titles.*

The title of the suit is a collection of the names of the plaintiffs, as they appear in the introductory part of the bill, and of the defendants. Where the plaintiff sues on behalf of himself and others, or is under disability, it is usual to state that fact in the title of the bill, and of the future proceedings in the cause; as thus:—

145.  
Titles.

Between John Lee, on behalf of himself and all other the creditors of A. B., deceased - - - plaintiff.

Or,

John Lee, an infant, by C. D., his next friend, plaintiff.

Or,

John Lee, a person of unsound mind, by C.D., the committee of his estate, and the said C. D., plaintiffs.

Or,

John Lee, a person of unsound mind, not so found, by C. D., his next friend - - - plaintiff.

Or,

Jane Lee, wife of the defendant John Lee, by C. D., her next friend - - - - - plaintiff.

Where, also, the defendant is stated to be out of the jurisdiction, or is named as a formal party only, the title should so express it; as thus:—

Henry Jones, out of the jurisdiction,

Or,

James Styles, to be bound upon service of a copy of the bill.

It is not usual to state in the title of the bill that a defendant is under disability; but after a guardian *ad litem* of such defendant has been appointed, that fact should be stated in the title of all future proceedings; as thus:—

James Styles, an infant by Edward Styles, his guardian.

Or,

James Styles, a person of unsound mind, not so found, by Edward Styles, his guardian.

Or,

James Styles, and Amy the wife of the said James Styles, by Edward Styles, her guardian.

### 3. Modes of describing Informants and Plaintiffs in an Information or Bill (s).

- 146.** Queen's Attorney-General, without a relator (f). Informing, sheweth Her Majesty's Attorney-General for the Province of Ontario on behalf of Her Majesty, as follows:
- 147.** Same, with a relator. Informing, (&c., as above, to Majesty), at and by the relation of C. D., of (*residence and addition*), as follows:
- 148.** Same, with a relator and plaintiff. Informing (&c., as in No. 147, to addition), and humbly complaining, sheweth the said C. D., the above named plaintiff, as follows:
- 149.** Same, with a plaintiff. Informing (&c., as in No. 146, to Majesty), and humbly complaining, sheweth C. D., of (*residence and addition*), the above named plaintiff, as follows:
- 150.** Same, on behalf of a lunatic. Informing (&c., as in No. 146, to General), on behalf of C. D., of (*residence*), a lunatic, at and by the relation of E. F., of (*residence and addition*), as follows:
- 151.** Government of Foreign State. The Bill of Complaint of the United States of America, Sheweth as follows:
- 152.** Corporation aggregate. The Bill of Complaint of the Mayor and Aldermen of the city of Hamilton (*or as may be*), Sheweth as follows.
- 153.** Incorporated Banking Company. The Bill of Complaint of the B. of L., a company incorporated by Act of Parliament, and carrying on business in the city of London, Sheweth as follows:
- 154.** On behalf of Shareholders. The Bill of Complaint of F. H., of, &c., on behalf of himself and all other the shareholders (except the defendants hereto) in a certain company called "The Canada Screw Company," Sheweth as follows:
- 155.** On behalf of creditors. The Bill of Complaint of A. B., of (*residence and addition*), on behalf of himself and all other the creditors of C. D., late of (*residence and addition*), deceased [Or, and all other the creditors of C. D., of, &c., for whose benefit the indenture of the — day of —, 18—, hereinafter stated, was made], Sheweth as follows:
- 156.** Assignee of a bankrupt. The Bill of Complaint of A. B., of (*residence and addition*),

(e) If, at the time of amending the bill, the description of the plaintiff, or of his next friend, is not the same as when the original bill was filed, the new description should appear in the amended bill.

(f) On amending an information, the proper name of the informant by whom the information was filed is retained, notwithstanding he may not be in office at the time when the information is amended. In the title of an information, the Attorney-General, whether informant or defendant, is described as "Her Majesty's Attorney-General for the Province of Ontario," without his proper name.

the official [*Or, creditors'*] assignee of the estate and effects of C. D., an insolvent, Sheweth as follows :

The Bill of Complaint of A. B., of (*residence and addition*), and C. D., an infant, by the said A. B. [*Or, by E. F., of (residence and addition)*], his next friend, Sheweth as follows : <sup>157. Adult and Infant.</sup>

The Bill of Complaint of A. B., an infant, by C. D., of (*residence and addition*), his next friend, Sheweth as follows : <sup>158. Infant by next friend.</sup>

The Bill of Complaint of A. B., a person of unsound mind, by C. D., of, &c., the committee of his estate, and the said C. D., Sheweth as follows : <sup>159. Idiot or lunatic by committee.</sup>

The Bill of Complaint of A. B., a person of unsound mind not so found [*Or, a person of weak mind*], by C. D., of (*residence and addition*), his next friend, Sheweth as follows : <sup>160. Person of unsound or weak mind, not so found.</sup>

The Bill of Complaint of A. B., of (*residence and addition*), and C., his wife, Sheweth as follows : <sup>161. Husband and wife, jointly.</sup>

The Bill of Complaint of A. B., of, &c., and C., the wife of the said A. B., by E. F., of, &c., her next friend, Sheweth as follows : <sup>162. Husband alone, and wife by next friend.</sup>

The Bill of Complaint of C. B., the wife of the defendant A. B., by E. F., of, &c., her next friend, Sheweth as follows : <sup>163. Wife, by next friend : husband a defendant.</sup>

The Bill of Complaint of C. B., of (*residence*), the wife of A. B., late of (*residence*), who hath abjured the realm [*Or, who hath, by due course of law, been sentenced to transportation to parts beyond the sea, where he now is—Or, who is an alien enemy—or as may be*], Sheweth as follows : <sup>164. Same : husband civiliter mortuus.</sup>

The Bill of Complaint of C. B., of (*residence*), the wife of A. B., who is now residing at G., out of the jurisdiction of this Honorable Court, by E. F., of, &c., her next friend, Sheweth as follows : <sup>165. Same : husband residing abroad.</sup>

The Bill of Complaint of C. B., of (*residence*), the wife of A. B., of, &c., suing as a *feme sole* [*Or, but who has obtained a statutory order for protection from her husband*], Sheweth as follows : <sup>166. Wife, as a feme sole.</sup>



**167.**  
Certificate of  
information  
being proper for  
the informant's  
sanction.

I hereby certify that this information is proper for the sanction of Her Majesty's Attorney-General. Dated this — day of —, 18—.

(Counsel's signature.)

**168.**  
The like, of  
amended infor-  
mation.

I hereby certify that this information, as amended, is proper for the sanction of Her Majesty's Attorney-General; and that the amendments therein are not made for the purpose of delay. Dated this — day of —, 18—.

(Counsel's signature.)

**169.**  
Certificate of  
ability of relator  
to pay costs,  
and verifying  
print.

I hereby certify that A. B., the proposed relator in this information, is a proper person to be such relator; and that he is competent to answer the costs thereof.

I also certify that this is a true copy of the draft information, as settled and signed by Mr. C. D., as counsel for the informant. Dated this — day of —, 18—.

E. F., of, &c.,  
Solicitor.

**170.**  
Relator's con-  
sent to his name  
being used.

(Style of cause.)

I hereby consent that my name be used as relator in the information in this cause.

**171.**  
Certificate  
verifying re-  
print.

I hereby certify that this is a true copy of the draft amended information, as settled and signed by Mr. C. D., as counsel for the informant. Dated (&c., as in last Form).

**172.**  
Notice of mo-  
tion, to take  
information off  
the file, for  
want of the in-  
formant's sanc-  
tion.

Formal parts: see ante, No. 53.

on the part of the defendant A. B., that the information [Or, amended information] in this suit may be taken off the file of this Court, for irregularity: the same not being, nor purporting to be, signed by Her Majesty's Attorney-General, the informant therein named; and that A. B., the person named as the relator in the said information, may be ordered to pay to the defendant his costs of this suit, and of this application. And take notice (as in No. 53).

**173.**  
Is pendens to  
be registered  
under S 67 of  
31 Vic. c. 20,  
Sta. of Ontario,  
Schedule I.

In Chancery.

I certify that in a suit or proceeding in Chancery (Or, in the County Court of — on its Equity side, as the case may be), between A. B. of —, and C. D. of —, some title or interest is called in question in the following lands (Stating them). Dated at (Stating date and place).

A. B., Dep'y Registrar.

## SECTION II.—AMENDING THE BILL.

*Formal parts: see ante, No. 53.*

on behalf of the plaintiff, for leave to amend his bill, by rectifying the following errors therein, namely: (*State shortly the corrections desired*; as: by substituting the name "Smythe," for the name "Smith," throughout the said bill; by substituting the date "1864," for the date "1846," in the paragraph numbered 2; by substituting the sum "£500," for the sum "£300," in the paragraphs numbered 4, 6, and 10. And take notice (*as in No. 53*).

174.  
Notice of motion, to amend clerical errors.

*Title—and address: see ante, No. 54.*

The humble petition of the plaintiff.

Showeth, that your petitioner lately filed his bill in this suit; and has since discovered certain clerical errors therein.

Your petitioner therefore humbly prays, that he may be at liberty to amend his bill, by rectifying (*Continue as in last Form*).

And your petitioner will ever pray, &c.

175.  
Petition of course, for the like.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that he may be at liberty to amend his bill filed in this cause, by striking out the names "Charles Baddeley," and substituting the name "Baddeley," as the Christian name of the plaintiff. And take notice (*as in No. 53*).

176.  
Notice of motion, to amend a clerical error after decree.

*Formal parts: see ante, No. 53.*

on behalf of the plaintiff, for leave to amend his bill as he may be advised.

No answer has yet been filed.

177.  
Notice of motion, to amend bill before answer.

*Title and address: see ante, No. 54.*

The humble petition of the plaintiff.

Showeth as follows:

1. Your petitioner lately filed his bill in this suit against the defendants: but no answer thereto has yet been filed.

2. Your petitioner is now advised to amend his said bill.

Your petitioner therefore humbly prays that he may be at liberty to amend his bill.

And your petitioner will ever pray, &c.

178.  
Petition of course, for the like.

**179.**  
Notice of motion, to amend bill after answer.

*Formal parts : see ante, No. 53.*

on behalf of the plaintiff, for leave to amend [*Or, re-amend his bill*]

*Generally : as he shall be advised.*

*Adding parties : by adding parties as defendants, with apt words to charge them.*

*Without prejudice to injunction : without prejudice to the injunction awarded in this cause.*

*Costs of amendment : upon payment of 20s. costs to the defendant A. B. ; and without costs as to the other defendants. And take notice (as in No. 53).*

**180.**  
Petition of course, for the like

*Title—and address : see ante, No. 54.*

The humble petition of the plaintiff.

Showeth as follows :

1. Your petitioner lately filed his bill in this suit against the defendants : but no answer has been put in to the said bill [*or as may be*].

Your petitioner is now advised to amend his bill.

Your petitioner therefore humbly prays, that he may be at liberty to amend (*Continue as in last Form*).

And your petitioner will ever pray, &c.

**181.**  
Notice of motion, to amend bill, pending demurrer or answer.

*Formal parts : see ante, No. 53.*

on behalf of the plaintiff, for leave to amend his bill as he may be advised [*or as may be : see ante, No. 179*].

A demurrer [*Or, answer*] to the whole [*Or, to part of the*] bill was filed by the defendants on the — 18 — ; but it has not been set down for argument.

**182.**  
Petition of course, for the like.

*Title—and address : see ante, No. 54.*

The humble petition of the plaintiff.

Showeth as follows :

1. Your petitioner lately filed his bill in this cause against the defendants.

2. On the —, 18—, the defendants filed a demurrer [*Or, answer*] to the whole [*Or, to part of the*] bill ; but the same has not been set down for argument.

3. Your petitioner is now advised to amend his bill.

Your petitioner therefore humbly prays, that he may be at liberty to amend his bill as he may be advised [*or as may be : see ante, No. 179*].

And your petitioner will ever pray, &c.

*Formal parts: see ante, No. 53.*

on behalf of the plaintiff, for leave to amend his bill as he may be advised; and that the defendant A. B. may answer the amended bill at the time he puts in his further answer to the original bill. And take notice (*as in No. 53*).

**183.**  
Notice of motion, to amend bill, and for amendments to be answered together.

*Title—and address: see ante, No. 54.*

Showeth as follows:

1. Your petitioner lately filed his bill in this cause against the defendant.
2. On the —, 18—, the defendant filed his answer to the said bill.
3. Your petitioner is now advised to amend his bill.

Your petitioner therefore humbly prays, that he may be at liberty to amend his bill, as he may be advised; and that the defendant may answer the amended bill at the time he puts in his further answer to the original bill.

And your petitioner will ever pray, &c.

**184.**  
Petition of course, for the like.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that he may be at liberty to amend his bill, as he shall be advised [*or as may be*]: without such amendment operating as a discharge of the contempt incurred by the defendant A. B. in [*as may be*], or rendering it necessary to proceed with the process of contempt *de novo*. And take notice, (*as in No. 53*).

**185.**  
Notice of motion to amend bill, without the amendment discharging a contempt.

*Formal parts: see ante, No. 53.*

on the part of the plaintiffs, that they may be at liberty to amend their bill in this cause by making the above named H. I. K. (husband) a defendant, and making it the bill of complaint of F. C., the wife of the said H. I. K., by C. A. K., of (*residence and addition*), her next friend, and otherwise as they shall be advised; and that the costs of this application may be costs in the cause. And take notice, that in such motion will be read (*&c., as in No. 53*).

**186.**  
Notice of motion to amend joint bill of husband and wife, by making it the bill of the wife only by her next friend.

*Formal parts: see ante, No. 53.*

on the part of the plaintiffs, that they may be at liberty to withdraw the replication filed in this suit on the — day

**187.**  
Notice of motion to withdraw replication, and amend bill.

of —, 18—, and amend [*Or, re-amend*] their bill by [*set out amendments desired.*] And take notice, that on such motion will be read (*&c., as in No. 53*).

**ISS.**  
Affidavit in  
support of mo-  
tion to amend  
bill.

### In Chancery.

(*Full title.*)

We, A. B., of (*Residence and addition*), the above named plaintiff [*Or, one of the above named plaintiffs—Or, We, A. B., of, &c., the next friend in this cause of the above named plaintiffs*], and C. D., of (*Place of business*), gentleman, the solicitor in this cause for the plaintiffs, severally make oath and say, as follows:

1. The counsel of the plaintiffs has advised that their bill in this cause should be amended [*Or, re-amended*], and has settled, approved, and signed the draft of the amendments proposed to be made in the said bill.

2. Such amendment is not intended for the purpose of delay or vexation; but because the same is considered to be material for the case of the plaintiffs.

3. The answer of the defendant [*Or, The joint and several answer of the defendants—Or, if there are several defendants who do not join in the same answer, say: The answer of the defendant E. F., being the last of the answers required to be put in*] was filed on the — last, and was deemed [*Or, held to be*] sufficient on the — last [*or as may be*].—*If so*: An order of course dated the —, 18—, for leave to amend the plaintiffs' bill has been obtained.

4. No replication has been filed in this cause; and the plaintiffs have not undertaken to reply.

*If the plaintiffs have filed or undertaken to file replication—or if four weeks have elapsed since the answer—or the last of the answers required to be put in—was deemed, or was held to be sufficient, substitute for paragraph 4 above, paragraph 4 below (if the fact); and add, in every case, paragraph 5.*

4. The plaintiffs filed replication in this suit on the —, last [*Or, The plaintiffs, on the —, last, undertook to file replication in this suit*].

5. For the reasons hereinafter stated the matter of the said proposed amendment is material, and could not, with reasonable diligence, have been sooner introduced into the said bill, that is to say: (*Show how the amendment is material; and that reasonable diligence has been used.*

*Formal parts : see ante, No. 53.*

on the part of the plaintiff A. B., that he may be at liberty to amend the plaintiffs' bill by striking out the name of C. D. as a co-plaintiff, and making him a defendant; and that the said C. D. may be ordered to pay to the plaintiff A. B. the costs occasioned by such amendment, and also the costs of giving any security for costs which the defendants or any of them may be held entitled to in consequence of such amendment, and incidental thereto; and also the costs of and incident to this application : to be taxed as between solicitor and client. And take notice (*as in No. 53*).

189.  
Notice of motion, by a plaintiff, for leave to amend, by making a defendant of his co-plaintiff refusing to proceed.

*Formal parts : see ante, No. 53.*

on the part of the plaintiff, that the time allowed him to obtain an order of course to amend his bill may be enlarged to the —, 18—; and that the costs of this application may be costs in the cause. And take notice, that on such motion will be read (*etc., as in No. 53.*)

190.  
Notice of motion for time to apply for an order to amend.

(*Date and title.*)

Upon the application, *etc.*, It is ordered that the time allowed the plaintiff to obtain an order to amend his bill be enlarged to the — day of —, 18—. And it is ordered that the costs of this application be costs in the cause [*Or*, that the plaintiff A. B. pay to the defendant C. D. \$—, for the costs of this application].

191.  
Order therein.

*Formal parts : see ante, No. 53.*

on the part of the plaintiff, that the time limited by the order dated the — 18—, for the applicant to amend his bill, pursuant to the said order [*Or*, to the order dated the —, 18—], may be (further) enlarged to the —, 18—; and that the costs of this application may be costs in the cause. And take notice, that (*as in No. 53.*)

192.  
Notice of motion to enlarge time to amend, under an order obtained.

In Chancery. } — day the — day of — in the —  
} year of the reign of Her Majesty Queen Victoria, and in the year of our Lord, 18—.

193.  
Order to amend

Between — Plaintiff,  
and — Defendant.

Upon the application of the plaintiff: It is ordered that — be at liberty to amend — bill of complaint in this cause as — may be advised, without costs; amending the de-

fendant — office-cop— thereof —, and making such amendment within fourteen days from this date.

Entered.

**194.** *Præcipe for amendment of a bill.* In Chancery.

(Short title.)

For amending the bill.

C. D., plaintiff's solicitor [*Or, agent*].

—, 18—.

**195.** Notice of motion, to take amended bill off the file, or strike out amendment or its, for irregularity.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that the plaintiff's amended bill may be taken off the file; or that the paragraph thereof numbered [14a] may be struck out from such bill; and that the costs of this application may be paid by the plaintiff. And take notice, that on such motion will be read (*&c., as in No. 53.*)

**196.** Another form thereof.

*Formal parts, see ante, No. 53.*

on the part of the defendant A. B., that the plaintiff's amended bill may be taken off the file; or, that the amendments made in the plaintiff's bill since the order dated the —, 18—, (*Order to amend*) may be struck out, and the record restored to the state in which it was in immediately before such amendments were made; and that the plaintiff may be ordered to pay to the defendant his costs occasioned by such amendments, and of this application. And take notice, that on such motion will be read (*&c., as in No. 53.*)

**197.** Notice of motion, for payment of defendant's costs of statements in bill abandoned by amendment.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that the plaintiff may be ordered to pay to the said defendant his costs of this suit up to the time of filing the plaintiff's amended bill; or so much of the defendant's costs of the original bill, and of his answer thereto, and of the other proceedings thereon, as have been occasioned by the — and — paragraphs of the said original bill, and the relief sought with respect thereto [*Or, as has been occasioned by the relief sought by the said original bill with respect to (State what)*]; and also the defendant's costs of this application.

**198.** Master's order under Order 60 In Chancery.

(Full title.)

Whereas, in proceeding under the decree in this cause,

bearing date the — of —, 18—, it appears that A. B. would, by the practice of the Court, be a necessary party to the suit, as he falls within the cases referred to in Order 60 of the Consolidated General Orders of this Honorable Court of June, 1868:

It is hereby ordered that the said A. B. be served with an office-copy of the said decree endorsed with the notice set forth in Schedule A, referred to in the said Order 60, and also with a copy of this order.

Dated, &c.

C. D.,  
Master at —.

To the within named A. B.:

Take notice, that from the time of the service hereof, you (*Or, as the case may be, the infant, or person of unsound mind*) will be bound by the proceedings in this cause in the same manner as if you (*Or, the said infant, or person of unsound mind*) had been originally made a party to the suit: and that you (*Or, the said infant, or person of unsound mind*) may, upon service of notice upon the plaintiff, attend the proceedings under the within decree: and that you (*Or, the said infant, or person of unsound mind*) may, within fourteen days after the service hereof, apply to the Court to add to, vary, or set aside the said decree.

A. B.,  
of the City of Toronto,  
in the County of York,  
Plaintiff's Solicitor.

199.  
Endorsement on office-copy of a decree, served under Order 60, being Schedule A referred to in that order.

## CHAPTER VI.

### PROCEEDINGS BY SERVICE OF NOTICE OF THE DECREE.

—:O:—

#### SECTION I.—PROCEEDINGS BY SERVICE OF NOTICE OF THE DECREE.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that he may serve notice of the decree [*Or, order*], dated the —, 18—, upon A. B. at (*State where; as thus: Paris, or elsewhere in the empire of France—Or, in the case of substituted service, say: upon A. B., by serving the same upon (State whom, and where; as thus:*

200.  
Notice of motion, for leave to serve the notice of decree out of the jurisdiction.

this cause,



his mother E. B., at the city of F., in the county of S., in the State of O., in the United States of America, or elsewhere in the said county of S.), and that the time to be specified in the indorsement on such notice, within which the said A. B. may apply to add to or vary the decree [*Or, order*] may be (six weeks) after such service. And take notice (*as in No. 53*).

**301.**  
Affidavit in support.

*Formal parts: see ante, No. 11.*

1. A. B., on whom notice of the decree [*Or, order*] in this cause, dated the —, 18—, is required to be served, as being interested in the matters in question in this suit (*State shortly how; as thus: under the trusts of the indenture dated the —, 18—, in the pleadings mentioned*), is now residing at (*State where; as thus: Paris, in the empire of France, out of the jurisdiction of this Honorable Court. He is not an infant, nor of unsound mind [or as may be]*).

2. *Show means of knowledge.*

**302.**  
Notice of motion for special directions as to mode of service.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff:

1. That service of notice of the decree [*Or, order*] dated the —, 18—, together with a copy of the order to be made hereon, upon A. B., of, &c., may be deemed good service upon C. D., E. F., and G. H.

2. That publication in the "Globe" newspaper of notice of the said decree [*Or, order*], and of the endorsement prescribed by the Consolidated Orders in this behalf, addressed to L. M., and of a copy of the order to be made hereon, may be deemed good service of such notice on the said L. M.

3. That service of notice of the said decree [*Or, order*] upon S. T., by sending such notice, indorsed with the memorandum prescribed as aforesaid, through the post office, in a pre-paid letter, addressed to him at —, may be deemed good service of such notice on the said S. T.

4. That service of notice of the said decree on W. Y. may be dispensed with.

(Place and date.)

**303.**  
Letter enclosing notice of decree to a person directed to be served through the post office.

To S. T., of —, Sir,

In a suit of A. v. B., now pending in the Court of Chancery for Upper Canada, for the administration of the estate of W. A. late of, &c., deceased [*or as may be*], it has, by an order dated the — 18—, been directed that notice of the decree [*Or, order*] therein, dated the — of —, 18—, be

transmitted to you, as being one of the next of kin of the said W. A. [*or as may be*]. I beg, therefore, as the plaintiff's solicitor to enclose you such notice (marked A.), and also a copy of the said order dated the —, 18— (*Order directing service*); and have to call your attention to the memorandum indorsed on the notice.

As I shall have occasion to satisfy the Court that the notice and copy order have reached you, I shall feel obliged by your signing and returning to me, through the post office, the acknowledgment to that effect which you will find written in the fold of the copy enclosed (marked B.) of the notice (u).

I am, &c.,

X. Y.

(Place and date.)

I, S. T., of, &c., hereby acknowledge to have received, through the post office, on the —, 18—, a notice with an indorsement thereon, in the form or to the effect of the within written notice and of the indorsement thereon, and also a document purporting to be a copy of an order made on the — of —, 18—, in the within mentioned suit, directing such notice to be transmitted to me.

S. T.

204.  
Acknowledgment of the receipt of the notice (v).

Formal parts: see ante, No. 11.

1. I have, in the manner hereinafter mentioned, served S. T., in the order made in this cause dated the — of —, 18— (*Order directing special mode of service*), named, with notice of the decree [*Or, order*] made in this suit, dated the — of —, 18—.

205.  
Affidavit of such service.

2. On the — of —, 18—, I put into the post office, in the city of Hamilton, in the county of Wentworth, a letter duly addressed thus. (*Set out the address*); and with the proper postage stamp affixed thereto, as a pre-paid letter; and of which letter the paper writing marked A. now produced and shown to me is a true copy.

3. The said letter, at the time I posted the same as aforesaid, contained a true copy, as passed and entered, of the order in this suit dated the — of —, 18—, now produced and shown to me, and marked B. (*Order directing special service*), and also a notice of the said decree [*Or, order*]

(u) It seems to be advisable, in every case, to send a form of acknowledgment for signature.

(v) The form assumes that the acknowledgment will be written on a copy of the notice and indorsement. Where it is not so intended, the acknowledgment should be varied in form accordingly, and made sufficiently explicit.

dated the — of —, 18—, with a memorandum indorsed thereon addressed to the said S. T., and of which two documents the notice marked C., and memorandum endorsed thereon marked D., now respectively produced and shown to me are true copies.

4. The said letter, when posted as aforesaid, also contained the said exhibited documents marked respectively C. and D., and likewise the acknowledgment, marked E., now appearing in the fold of the said notice, except that such acknowledgment was then undated and unsigned.

5. The said exhibited documents, marked C. D., and E., were received by me on the — of —, 18—, through the post office.

6. Under the circumstances hereinbefore stated, I verily believe that notice of the said decree [*Or, order*], with such indorsement thereon as aforesaid, and a copy of the said order of the — of —, 18— (*Order directing service*), were duly received by the said S. T., at —, aforesaid, on or about the — of —, 18—.

## CHAPTER VII.

### PROCEEDINGS IN DEFAULT OF ANSWER.

—:O:—

#### *Notice to the defendant within named.*

**206.**  
Endorsement  
on bill of com-  
plaint referred  
to in Order 86,  
being Schedule  
C mentioned in  
that order.

Your answer is to be filed at the office of the Clerk of Records and Writs, at Osgoode Hall, in the city of Toronto (*Or, when the bill is filed in an outer County,*) at the office of the Deputy Registrar at —.

You are to answer or demur within four weeks from the service hereof (*Or, when the defendant is served out of the jurisdiction, within the time limited by Order 90*).

If you fail to answer or demur within the time above limited, you are to be subject to have such decree or order made against you as the Court may think just upon the plaintiff's own showing; and, if this notice is served upon you personally, you will not be entitled to any further notice of the future proceedings in the cause.

NOTE.—This bill is filed by A. B., of the city of Toronto, in the county of York, solicitor for the above named plaintiff: (*Or, where the party who files the bill is agent, say agent of E. F., of —, solicitor for the above named plaintiff*).

—, Plaintiff's Solicitor.

*Notice to the defendant within named.*

Your answer is to be filed at the office of the Clerk of Records and Writs, at ———, in the ——— of ———.

You are to answer or demur within ——— weeks from the service hereof.

If you fail to answer or demur within the time above limited, or if you answer admitting the execution of the mortgage and other facts stated in the bill as entitling the plaintiff to a decree, you are to be subject to have a decree or order made against you forthwith thereafter; and if this notice is served upon you personally, you will not be entitled to any further notice of the future proceedings in the cause.

NOTE.—This bill is filed by ———, of ———, in the county of ———, solicitor for the above named plaintiff.

AND TAKE NOTICE, that the plaintiff claims that there is now due by you for principal money and interest the sum of ———, and that you are liable to be charged with this sum, with subsequent interest and costs, in and by the decree to be drawn up; and that in default of payment thereof within six calendar months from the time of drawing up the decree, your interest in the property may be sold ——— unless before the time allowed you as by this notice for answering, you file in the office above named a memorandum in writing signed by yourself or your solicitor to the following effect:—(*dispute the amount claimed by the plaintiff in this cause*), in which case you will be notified of the time fixed for settling the amount due by you at least four days before the time to be so fixed.

———, Plaintiff's Solicitor.

*Notice to the defendant within named.*

Your answer is to be filed at the office of the Clerk of Records and Writs, at ———, in the ——— of ———.

You are to answer or demur within ——— weeks from the service hereof.

If you fail to answer or demur within the time above limited, or if you answer admitting the execution of the mortgage and other facts stated in the bill as entitling the plaintiff to a decree, you are to be subject to have a decree or order made against you forthwith thereafter; and if this notice is served upon you personally, you will not be entitled to any further notice of the future proceedings in the cause.

NOTE.—This bill is filed by ———, of ———, in the county of ———, solicitor for the above named plaintiff.

AND TAKE NOTICE, that the plaintiff claims that there is now due by you for principal money and interest the sum

207.

Endorsement on office copy bill for sale under order 436, being part of Schedule 8 referred to in that order.

208.

Endorsement on office copy bill for foreclosure under Order 436, being part of Schedule 8 referred to in that order.

of ———, and that you are liable to be charged with this sum, with subsequent interest and costs, in and by the decree to be drawn up, and that in default of payment thereof within six calendar months from the time of drawing up the decree, your interest in the property may be foreclosed ——— unless before the time allowed you as by this notice for answering you file in the office above named a memorandum in writing signed by yourself or your solicitor to the following effect: (— *dispute the amount claimed by the plaintiff in this cause*), in which case you will be notified of the time fixed for settling the amount due by you at least four days before the time to be so fixed. If you desire a sale of the mortgaged premises instead of a foreclosure, you must, within the time allowed you to answer, file in the office above named a note or memorandum in writing, signed by yourself or your solicitor, to the following effect: "I desire a sale of the mortgaged premises in the plaintiff's bill mentioned, or a competent part thereof, instead of a foreclosure," and deposite the sum of \$80 to meet the expenses of such sale.

A. B., Plaintiff's Solicitor.

**209.**

Affidavit in support of motion for substituted service of the copy of the bill.

*Formal parts: see ante, No. 12.*

1 The plaintiff's bill in this cause was filed on the ——— of ———, 18—, against the defendant A. B.; but no answer thereto has been filed by the said defendant.

2. *Show what efforts have been made to serve the defendant with the copy of the bill; that all practicable means of doing so have been exhausted; that the proposed substitute has been appointed by the defendant to act as his agent in the suit, or other special grounds; and how the substituted service is proposed to be effected.*

3. *Show means of knowledge.*

**210.**

Affidavit in support of motion for leave to serve copy of the bill abroad.

*Formal parts: see ante, No. 12.*

1. The plaintiff's bill in this suit was filed on the ——— of ———, 18—, against the defendant A. B.; but no answer has been filed thereto by the said defendant.

2. *Show in what place or country the defendant is, or may probably be found.*

3. *Show means of knowledge.*

**211.**

Order to serve bill out of jurisdiction.

In Chancery.

} ——— the ——— day of ———, in the ———  
} year of the reign of Her Majesty Queen Victoria, and in the year of our Lord 18—.

Between— .....Plaintiff,  
and .....Defendant.

Upon the application of the plaintiff —, and it appearing by affidavit that the said defendant — reside at — out of the jurisdiction of this Court: It is therefore ordered, that personal service of an office copy of the plaintiff's bill, together with the notice and certificate endorsed thereon, required by the General Orders of this Court, and a copy of this order, upon the said Defendant — aforesaid, shall be deemed good service: And the said defendant — is to answer the plaintiff's bill within — after such service: And it is ordered that an affidavit of such service, and of the identity of the said defendant — sworn before the Mayor or other Chief Magistrate of any city, town, or borough, where, or near which, such service shall be effected, shall be deemed sufficient proof of such service and identity.

Entered.

—, Registrar.

*Formal parts: see ante, No. 12.*

1. The plaintiff's bill in this cause was filed on the — of —, 18—, against the defendant A. B.

2. *Show that the defendant is absent beyond the jurisdiction, or that upon inquiry at his usual place of abode he could not be found, so as to be served with a copy of the bill or other process; and that there is just ground to believe that he is gone out of the jurisdiction, or otherwise absconded, to avoid being served with the copy of the bill or other process of the Court.*

**212.**  
Affidavit in support of motion for service of bill by publication under Order 100.

In Chancery. } — the — day of —, A.D.,  
                              } 18—.

Between—A. B.....Plaintiff,  
and  
C. D.....Defendant.

Upon the application of the above named plaintiff, and upon hearing read the affidavit of — and the exhibits therein referred to, it is ordered that the defendant C. D., do, on or before the — day of — next, answer or demur to the bill of complaint in this cause.

**213.**  
Order directing service of bill by publication under Order 100

In Chancery.

Between—A. B.....Plaintiff,  
and  
C. D.....Defendant.

**214.**  
Notice in case of an absconding defendant referred to in Order 100, being part of Schedule C referred to in that order.

To C. D., the above named defendant :

Take notice, that if you do not answer or demur to the bill, pursuant to the above order, the plaintiff may obtain an order to take the bill as confessed against you, and the Court may grant such relief as he may be entitled to on his own showing, and you will not receive any further notice of the future proceedings in the cause.

Your answer is to be filed at the office of the Clerk of Records and Writs, at Osgoode Hall, in the city of Toronto.

**215.**  
Order to take  
bill *pro confesso*  
after service by  
publication.

In Chancery. }

— the — day of —, in the —  
year of the reign of Her Majesty Queen Vic-  
toria, and in the year of our Lord 18—.

Between

Upon the application of the plaintiff —, and it appearing that by an order of this Court bearing date the — day of — last; It was ordered, that the said defendant — should, on or before the — day of —, answer or demur to the plaintiff's bill in this cause: And that a copy of the said order, together with the notice required by the General Orders of this Court, should be published in the — newspaper published at — once in each week, for the four weeks next preceding the said — day of —.

Whereupon, and upon hearing read the affidavit of —, and the exhibits therein referred to, and it appearing to the satisfaction of this Court that the said order and notice had been duly published as directed, and that no answer has been put in by the said defendant — as by the certificate of the — Registrar of this Court — appears. It is ordered, that the said plaintiff be at liberty forthwith to set this cause down to be heard in order that — bill of complaint may be taken *pro confesso* against the said defendant —.

**216.**  
Notice in case  
of an absent  
defendant, re-  
ferred to in  
Order 108, being  
Schedule E  
mentioned in  
that order.

In Chancery. .

Between—A. B.....Plaintiff,  
and  
C. D.....Defendant.

To the defendant C. D.:

Take notice, that a motion will be made in Chambers, at Osgoode Hall, in the city of Toronto, on the — day of — (the time fixed by the order authorizing publication), that the bill in this cause may be taken as confessed against you; and such order having been made, the Court may grant to the plaintiff such relief as he may be entitled to on his

own showing; and you will not receive any further notice of the future proceedings in the cause.

Dated the — day of —, A.D.—.

Y. X., Plaintiff's Solicitor.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that the defendant A. B., the wife of the defendant C. B., may be ordered within one lunar month to put in her answer to the plaintiff's bill, separately from her said husband. And take notice, that on such motion will be read (&c., as in No. 53).

**317.**  
Notice of motion by plaintiff, that wife may answer separately from husband.

*Formal parts: see ante, No. 12.*

**318.**  
Affidavit in support.

1. *Prove service of the copy of the bill: see ante.*

2. *State the special grounds for the application; as in the following examples:*

- (a) By an order, dated the — day of —, 18—, leave was given to the defendant C. B. to answer the plaintiff's bill, and defend this suit, separately from his wife, the defendant A. B.; and he has since put in his separate answer to the said bill accordingly [Or, The defendant C. B. hath, without order, filed the answer of himself only to the plaintiff's bill]; but no order has yet been obtained by or for the defendant A. B., to answer separately from her said husband.
- (b) The defendant A. B. refuses to join with her husband in answering the said bill.
- (c) The matters in question in this suit arise in right of the defendant A. B.
- (d) The defendant C. B. is resident at (*State where*), out of the jurisdiction of this Honorable Court. His wife the defendant A. B. is resident within such jurisdiction.
- (e) The defendant C. B. is of weak or unsound mind; but he has not been so found by proceedings in lunacy. In consequence of such mental infirmity he is incapable of answering the plaintiff's bill.

3. *Show means of knowledge.*

In Chancery. } — the — day of —, in the —  
                          } year of the reign of Her Majesty Queen Victoria, and in the year of our Lord 18—.

Between

**319.**  
Order for married woman to answer separately from her husband.

Upon the application of the plaintiff —, and upon hearing read an affidavit of the service of the plaintiff's bill



upon the said defendant —, the husband of the said defendant —, and no answer thereto being filed by her, although the time allowed for answering the said bill has expired, as by the certificate of the — Registrar of this Court — appears. It is ordered, that the said last named defendant do, within four weeks after service of an office copy of the said bill, with the notice and certificate endorsed thereon, as required by the general orders of this Court, together with a copy of this order put in her answer to the said bill, separate and apart from her said husband —.

**530.**  
Notice of motion by plaintiff, that husband's separate answer may be taken off the file, for irregularity.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that a certain document filed by the defendant C. B. on the — day of —, 18—, purporting to be his answer to the plaintiff's bill, may be taken off the file of this Court for irregularity; with costs, to be paid by the said defendant to the plaintiff. And take notice, that on such motion will be read (&c., as in No. 53).

#### EFFECT OF A CONTEMPT UPON THE PROCEEDINGS IN THE CAUSE.

**531.**  
Notice of motion, to stay proceedings by plaintiff till he clears his contempt.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that all proceedings in this cause be stayed until the plaintiff has cleared his contempt in not (*State what*). And take notice, that on such motion will be read (&c., as in No. 53).

### CHAPTER VIII.

#### DEMURRERS.

—:O:—

#### SECTION I.—FORM OF DEMURRERS.

**532.**  
General form of a demurrer.

In Chancery.

Between (*Set forth the title of the cause*).

- (1.) Title (*w*).
- (2.) Heading.

The demurrer of A. B., the above named defendant [*Or*, one of the above named defendants], to the bill of complaint [*Or*, amended bill of complaint] of the above named plaintiff.

(*w*) The title of the demurrer must agree with that of the cause, at the time the demurrer is filed.

*Or,*

The demurrer of John Jones (in the bill by mistake called William Jones), the above named defendant [*Or*, one of the above named defendants], to the, &c.

*Or,*

The joint and several demurrer of A. B., and C. D., the [*Or*, two of the] above named defendants, to the, &c.

*Or,*

The joint demurrer of A. B., and C. his wife, the [*Or*, two of the] above named defendants, to the, &c.—*Or*, if they have married since she was made a defendant, say: The joint demurrer of A. B., and C. his wife, lately, and in the bill called, C. D. Spinster—*Or*, widow—to the, &c.

This defendant [*Or*, These defendants], by protestation, not confessing or acknowledging all or any of the matters and things in the said bill contained to be true, in such manner and form as the same are therein set forth and alleged, doth [*Or*, do] demur in law to the said bill [*Or*, if the demurrer is to part of the bill only, say, after alleged: as to so much of the said bill as seeks (*State what*), this defendant doth [*Or*, these defendants do] demur in law thereto]:

And for cause of demurrer sheweth [*Or*, show] that (*Set forth the causes of demurrer*).

Wherefore, and for divers other imperfections and good causes of demurrer appearing in the said bill, this defendant doth [*Or*, these defendants do] demur thereto; and he prays [*Or*, they pray] the judgment of this Honorable Court whether he [*Or*, whether they, or either of them] ought to be compelled to make any further or other answer to the said bill, or any of the matters and things therein contained; and he prays [*Or*, they pray] to be hence dismissed with his [*Or*, their] costs and charges in this behalf sustained.

(*Name of counsel.*)

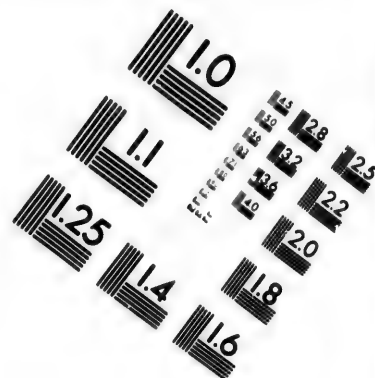
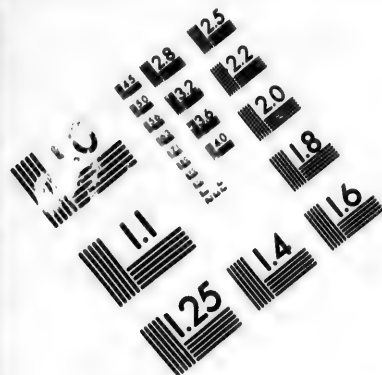
## SECTION II.—FILING, SETTING DOWN, AND HEARING DEMURRERS.

*Formal parts: see ante, No. 53.*

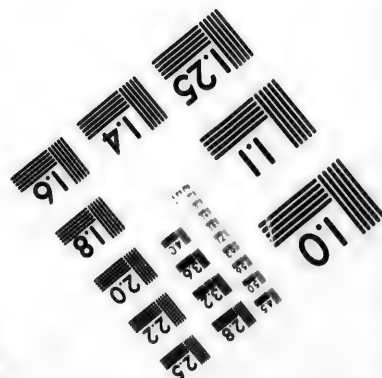
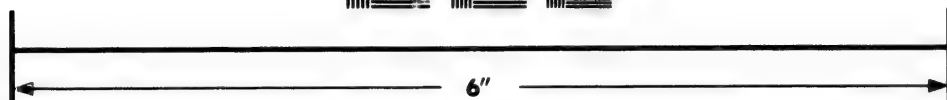
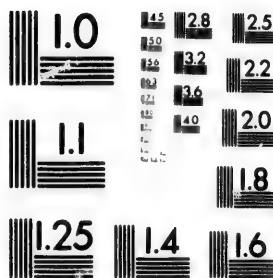
on the part of the defendant A. B., that he may have ——— days further time to (answer, or demur, or to) demur alone to the plaintiff's bill; and that the costs of this application may be costs in the cause. And take notice, that on such motion will be read (&c., as in No. 53).

223.

Notice of motion for further time to demur alone.



# **IMAGE EVALUATION TEST TARGET (MT-3)**



**Photographic  
Sciences  
Corporation**

23 WEST MAIN STREET  
WEBSTER, N.Y. 14580  
(716) 872-4503

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**234.**  
Notice of motion for leave to demur alone, where the time allowed has expired.

*Formal parts : see ante, No. 53.*

on the part of the defendant A. B., that, notwithstanding the time limited by the General Orders has expired, the applicant may be at liberty, on or before the — day of —, to demur alone to the plaintiff's bill; and that the costs of this application may be costs in the cause. And take notice (*asin* No. 53).

**235.**  
Notice of having filed a demurrer

*Formal parts : see ante, No. 52.*

Take notice, that I have this day filed the demurrer of the defendant A. B., to the plaintiff's bill.

**236.**  
Notice of motion for costs of a demurrer not set down.

*Formal parts : see ante, No. 53.*

on behalf of the defendant A. B., that the plaintiff may be ordered to pay his costs of the demurrer filed by him on the — 18—, to part of the plaintiff's bill [*Or, if to the whole bill, say :* to the whole of the plaintiff's bill; and also his costs of this suit; and that such bill may stand dismissed. —*If there are other defendants, add :* as against the said defendant]; such demurrer not having been set down for argument; and no order having been served to amend the bill.

**237.**  
Notice of motion, by a defendant who has successfully demurred, that his name may be struck out of the bill.

*Formal parts : see ante, No. 53.*

on the part of the defendant A. B., that his name may be struck out of the record of the plaintiff's bill in this cause as a party defendant thereto; and that the plaintiff may be ordered to pay the costs of the said defendant of this application.

## CHAPTER IX.

### DISCLAIMERS.

—:O:—

**238.**  
General form of disclaimer.

*In Chancery.*

Between (*Set out title of the cause.*)

The answer and disclaimer of A. B., the above named defendant [*Or, one of the above named defendants*], to the bill of complaint of the above named plaintiff.

*Or,*

The joint and several answer and disclaimer of A. B.

In  
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and C. D., the [Or, two of the] above named defendants, to the bill of complaint of the above named plaintiff.

In answer to the said bill, I, A. B. [Or, we, A. B., and C. D.] say as follows:

I [Or, we] have not, and do not claim, and never had or claimed to have, any right or interest in any of the matters in question in this suit; and I [Or, we] disclaim all right, title and interest, legal and equitable, in any of the said matters; and I [Or, we] say that if I [Or, we] had been applied to by the plaintiff before the filing of his bill, I [Or, we] should have disclaimed all such right, title and interest; and I [Or, we] submit that the bill ought to be dismissed as against me [Or, us] with costs.

(Name of Counsel.)

---

*Proceed, as in last Form, to as follows:*

Before the institution of this suit, I [Or, we] offered to the plaintiff to disclaim any right or interest that I [Or, we, or either of us] had in any of the matters in question in this suit; and I [Or, we] do not now claim any right, title or interest, legal or equitable, in any of the said matters; and I [Or, we] submit that I [Or, we] ought to be paid my [Or, our] costs of this suit.

(Name of counsel.)

---

*Formal parts: see ante, No. 52.*

Take notice, that I have this day filed the disclaimer [Or, answer and disclaimer] of the defendant A. B., to the plaintiff's bill.

329.  
The like.

330.  
Notice of having  
filed disclaimer.

## CHAPTER X.

### ANSWERS.

—:0:—

#### SECTION I.—FORM OF ANSWERS (x).

##### 1. *Model Form (y).*

231.  
Answer referred  
to in Order 112,  
being Schedule  
F. mentioned  
in that Order,  
with jurat also  
referred to in  
that Order.

In Chancery.

Between A. B.....Plaintiff.  
and

C. D. and E. F .....Defendants.

The answer of C. D., one of the above named defendants, to the bill of complaint of A. B., the above named plaintiff.

"In answer to the said bill I, C. D., say as follows:

1. "I admit, (*or*, For the purposes of this suit I admit), the truth of the allegations contained in the Plaintiff's bill, or the allegations contained in the \_\_\_\_\_ paragraph of \_\_\_\_\_ or so much of the allegations contained in the \_\_\_\_\_ as commence with the words, "\_\_\_\_\_", and end with the words "\_\_\_\_\_", or I admit, &c., save and except that I say, (stating qualifications of admission, if any.)

2. "I believe that the defendant E. F. does claim to have a charge upon the farm and premises comprised in the indenture of mortgage of the \_\_\_\_\_ day of \_\_\_\_\_, in the plaintiff's bill mentioned.

3. "Such charge was created by an indenture dated, &c., made between myself of the one part, &c.

4. "To the best of my knowledge, remembrance, and belief, there is not any other mortgage, charge, or incumbrance affecting the aforesaid premises."

[Such statements as are considered necessary or material are to be introduced with as much brevity as may consist with clearness; and where a defendant seeks relief under Order 126, the answer is to ask the special relief to which he thinks himself entitled.]

(x.) The answer must be intitled in the cause, so as to agree with the names of the parties as they appear in the bill at the time the answer is filed.

(y) The engrossment or print of the answer must be signed by the defendant putting it in, unless an order has been obtained to take it without signature. Where an answer is put in by guardian or committee, his signature is alone required; and though he is also a defendant, and puts in the answer in both characters, he need only affix his signature to the answer once. It is prudent, but not essential, to sign each sheet of the answer. Each schedule, if any, should also be signed. If the answer is put in upon oath, attestation of honor, or affirmation, the signature must be affixed or acknowledged in the presence of the person before whom it is sworn, &c.; and he must sign each schedule, as well as the jurat or affirmat.

*Form of Jurat, referred to in Order 122.*

Sworn before me at \_\_\_\_\_ in the County of \_\_\_\_\_ on the  
\_\_\_\_\_ day of \_\_\_\_\_, A. D. \_\_\_\_\_

*2. Other Forms of Headings.*

The answer of A. B., the above named defendant [Or, one <sup>232.</sup> Sole defendant, of the above named defendants], to the bill of complaint or co-defendant, (z) of the above named plaintiff—Or, to the original bill to original bill, of complaint, and also to the amended bill of complaint, or bill amended before answer. of the above named plaintiff.

In answer to the said bill, I, A. B., say as follows:—

The joint and several answer of A. B., and C. D., the [Or, <sup>233.</sup> Co-defendants. two of the] above named defendants, to the bill, &c.

In answer to the said bill we, A. B., and C. D., say as follows:—

The answer of J. R., Her Majesty's Attorney-General for <sup>234.</sup> Attorney-General. the Province of Ontario, one of the above named defendants, to the bill, &c.

In answer to the said bill, I, J. R., say as follows:—

The answer of the above named defendants, the Great <sup>235.</sup> Joint-Stock Western Railway Company, to the bill, &c. Company, Limited.

In answer to the said bill, we, the Great Western Railway Company, say as follows:—

The joint and several answer of A. B., and of C. D., an infant <sup>236.</sup> Adult, and —Or, a person of unsound [Or, weak] mind not so found infant, or person [or as may be]—by the said A. B. [Or, by E. F.] his guardian, or of unsound or dian, the [Or, two of the] above named defendants to the weak mind. bill, &c.

In answer to the said bill, we, the said A. B., and C. D., say as follows:—

The answer of A. B., an infant—Or, a person of unsound <sup>237.</sup> Infant, or person of unsound [Or, weak] mind not so found [or as may be]—by C. D., his guardian, one of the above named defendants, to the bill, &c. or weak mind, by guardian.

In answer to the said bill, I, A. B., say as follows:—

(c) This form is sufficient, where the answer is put in to a bill amended before answer.



**238.**  
Husband and  
wife jointly.

The joint answer of A. B., and C. his wife, the [Or, two of the] above named defendants, to the bill, &c. [Or if they have married since she was made a defendant, say: The joint answer of A. B., and C. his wife, lately, and in the bill called C. D., spinster—Or, widow—to the bill, &c.]

In answer to the said bill, we, A. B., and C. his wife, say as follows :—

**239.**  
Wife separately,  
under an order.

The answer of C. B., one of the above named defendants, and the wife of (the defendant) A. B., to the bill, &c.

In answer to the said bill, I, C. B., answering separately from my husband, in pursuance of an order of this Honorable Court, dated the — day of —, 18—, authorising me so to do, say as follows :—

**240.**  
Misnomer.

The answer of John Jones (in the bill by mistake called William Jones), the above named defendant [Or, one of the above named defendants], to the bill, &c.

In answer to the said bill, I, John Jones, say as follows :—

**241.**  
Executors of  
deceased de-  
fendant, under  
order of revivor.

In Chancery.

(Title as in bill; but add: since deceased: after name of deceased defendant.)

The joint and several answer of A. B. and C. D. (the executors of the above named defendant E. F., and against which executors this suit has been revived by order, dated the — day of —, 18—), to the bill of complaint of the above named plaintiff.

In answer, &c.

## SECTION II.—SWEARING AND FILING ANSWERS.

### 1. Further time to answer.

**242.**  
Notice of mo-  
tion, for further  
time to plead,  
answer, or  
demur.

Formal parts: see ante, No. 53.

or, on the part of the defendant A. B., that he may have one month's [or as may be] further time to put in an answer, or demurrer, not demurring alone, to the plaintiff's (amended) bill; and that the costs of this application may be costs in the cause. And take notice, that on such motion will be read (as in No. 53).

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that he may be at liberty, on or before the — of —, 18—, to put in an answer, or demurrer, not demurring alone [*or as may be*], to the plaintiff's bill; and that the costs of this application may be costs in the cause. And take notice (*as in No. 53*).

243.  
Notice of motion, for leave to file an answer where the time has expired.

*Formal parts: see ante, No. 12.*

1. The bill in this cause was served on the defendant A. B., on the — day of —, 18—.

244.  
Affidavit in support of application for further time.

2. *Show, succinctly, in numbered paragraphs, that due diligence has since been used to put in an answer.*

3. It is essential to the due preparation and completion of the said answer that one month's [*or as may be*] further time should be granted to the said defendant to put in the same. The pending application by the said defendant for such further time is not intended for the purpose of delay or vexation.

4. *Show means of knowledge.*

## 2. Leave for Husband or Wife to defend separately.

*Formal parts: see ante, No. 53.*

on behalf of the defendant A. B., that he may be at liberty to answer the plaintiff's bill, and defend this suit, separately from the defendant C. B., his wife.

245.  
Notice of motion, by husband, for leave to answer separately from his wife.

In Chancery.

(*Title.*)

I, A. B., of (*residence and addition*), one of the above named defendants, make oath and say as follows:—

246.  
Affidavit in support.

1. The bill in this cause was served on me on the — day of —, and I have not yet filed an answer, or demurrer, thereto.

*Show special grounds for the application; as thus:* 2. My said wife has for — years last past lived, and is now living, separate and apart from me; and to the best of my knowledge, information, and belief, she is now residing at (*State where*). My said wife is not in any manner under my influence or control. [*Or, my said wife is living with me; but she obstinately refuses to join with me in answering the said bill, or in otherwise defending this suit; and I am wholly unable to persuade or induce her to answer the said bill. I am not in any manner conniving or colluding with her in such her refusal*].

3. The facts hereinbefore stated are within my own knowledge.

3. *Dispensing with Oath, &c.*

947.  
Notice of motion, by plaintiff, for answer to be filed without oath, &c.

*Formal parts : see ante, No. 53.*

on behalf of the plaintiff, for leave for the defendant A. B. to put in an answer to the plaintiff's bill, without oath—*If so : or signature—Or, if by guardian, or committee, say : without the oath (or signature) of C. D., the guardian [Or, committee] of the said defendant—Or, in the case of a corporation aggregate, say : without the common seal of the said defendants being affixed thereto.*

4. *Oaths and Jurats—Declarations and affirmats.*

948.  
Ordinary forms of oath and jurat: one defendant.

*To the defendant : Is that your name and handwriting ?*

You do swear that so much of this your answer as concerns your own acts and deeds is true to the best of your knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named you believe to be true—So help you God.

A. B. { Sworn, (If another defendant joins in the answer, add :  
by the defendant A. B.,) at (State where, and when, as  
in No. 231).

before me (&c. : see ante, No. 231).

949.  
The like: two or more defendants sworn together (a).

*To each defendant : Is that your name and handwriting ?*

*To both or all :* You do severally swear that so much of this your answer as concerns your own acts and deeds is true to the best of your knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named you believe to be true—So help you God.

A. B. { Sworn by both [Or, all] the defendants [Or, if other  
defendants join in the answer, say : by the defendants  
C. D. { A. B. and C. D.], at (State where, and when, as in No.  
231).

before me (&c. : see ante, No. 231).

950.  
Oath of a blind defendant, and jurat, where the officer reads to him the answer.

*To the defendant :* You do swear that so much of this your answer as concerns your own acts and deeds is true to the best of your knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named you believe to be true—So help you God.

(a) Where all the defendants joining in the same answer are not sworn at the same time, a separate jurat must be written for each occasion on which the oath is administered : *Braithwaite's Oaths in Chan. 53, n. (a).*

A. B.  
[Or,  
The mark  
x  
of A. B.]

{ Sworn, by the defendant A. B., at (*State where, and when, as in No. 15, ante*), before me: I having first truly, distinctly, and audibly read over the contents of this answer to the said defendant: he being blind; and he appeared to understand the same:

(*Signature and style of office: see ante, No. 15.*)

*To the witness:* Is that your name and handwriting?

You do swear that you have truly, distinctly, and audibly read over the contents of this answer to the defendant A. B.; and that he appeared to understand the same, and signed his name [*Or, made his mark*] to this answer in your presence—So help you God.

251.  
Oaths and jurat,  
where a witness  
reads the an-  
swer to a blind  
defendant.

*To the defendant:* You do swear that so much of this your answer as concerns your own acts and deeds is true to the best of your knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named you believe to be true—So help you God.

A. B.  
[Or,  
The mark  
x  
of A. B.]

{ Sworn by the defendant A. B., at (*State where, and when, as in No. 15, ante*): C. D., the witness to the signature [*Or, mark*] of the said defendant having been first sworn that he had truly, distinctly, and audibly read over the contents of this answer to the said defendant: he being blind; and that the said defendant appeared to understand the same, and signed his name [*Or, made his mark*] thereto, in the presence of the said C. D.:  
before me (*&c.: see ante, No. 15.*)

Witness to the sig-  
nature [*Or, mark*]  
of the defendant  
A. B.:  
C. D.,  
of (*Residence and  
addition (b)*).

*To the defendant:* Is that your name and handwriting?

You do swear that so much of this your answer as concerns your own acts and deeds is true to the best of your knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named you believe to be true—So help you God.

252.  
Ordinary form  
of oath of a  
deaf and dumb  
defendant and  
jurat.

A. B. { Sworn at (*State where, and when, as in No. 15, ante*),  
before me (*&c.: see ante, No. 15.*)

(b) The attestation should be written near the jurat.

253.  
Oath and jurat  
where a foreign-  
er answers in  
English,  
through an  
interpreter.

*To the interpreter:* Is that your name and handwriting? (c)

You do swear that you well understand the French language [*Or other language of the defendant*]; and that you have truly, distinctly, and audibly interpreted the contents of this answer to the defendant A. B.; and that you will truly and faithfully interpret to him the oath about to be administered to him—So help you God.

*To the defendant, through the interpreter:* Is that your name and handwriting?

You do swear that so much of this your answer as concerns your own acts and deeds is true to the best of your knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named you believe to be true—So help you God.

A. B.  
C. D.,  
of (*Residence, and*  
*addition (d)*).

{ Sworn, at (*State where, and when, as in*  
*No. 15, ante*), by the defendant A. B.,  
through the interpretation of C. D.:  
the said C. D. having been first sworn  
that he had truly, distinctly, and  
audibly interpreted the contents of this  
answer to the defendant A. B.; and  
that he would truly and faithfully in-  
terpret to the said defendant the oath  
about to be administered to him:  
before me (*éc.*: see *ante*, No. 15).

254.  
Oath and jurat  
to answer of an  
infant, or person  
of unsound or  
weak mind, by  
guardian, where  
the guardian  
joins as a co-  
defendant.

*To the guardian:* Is that your name and handwriting?

You do swear that so much of this answer as concerns your own acts and deeds is true to the best of your knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named you believe to be true—So help you God.

You do also swear that so much of this answer as concerns the defendant A. B. you believe to be true—So help you God.

C. D. (e) { Sworn at (*State where, and when, as in* No. 15,  
*ante*), by the defendant C. D., for himself, and also  
as guardian of the defendant A. B., pursuant to  
an order dated the — day of —, 18— (f),  
before me (*éc.*: see *ante*, No. 15).

255.  
Oath and jurat  
to like answer,  
where the  
guardian does  
not so join.

*To the guardian:* Is that your name and handwriting?

You do swear that so much of this answer of the defendant A. B. as concerns the said defendant you believe to be true—So help you God.

(c) It seems desirable, but is not in practice considered essential, that the interpreter should sign the answer: Braithwaite's Oaths in Chan. 53, n. (f).

(d) If the interpreter does not sign the jurat, his place of residence and addition must be stated in the jurat, immediately after the first occurrence of his name.

(e) The guardian need only affix his signature to the answer once.

(f) The order here referred to is the order appointing the guardian *ad litem*.

C. D. (g) { Sworn at (*State where, and when, as in No. 15, ante*), by C. D., as guardian of the defendant A. B., pursuant to an order dated the — day of —, 18— :  
before me (&c. : *see ante*, No. 15).

*To the committee* : Is that (*Continue as in No. 254, ante, to the end of the second oath.*) 256.  
Oath and jurat  
to answer of an  
idiot, &c., and  
his committee.

C. D. (h) { Sworn at (*State where, and when, as in No. 15, ante*), by the defendant C. D., for himself, and also as committee of the defendant A. B. :  
before me (&c. : *see ante*, No. 15).

*To the defendant* : Is that your mark ?

You do swear that so much of this your answer as concerns your own acts and deeds is true to the best of your knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named you believe to be true—So help you God. 257.  
Oath of a marks-  
man, and jurat,  
where the  
officer reads to  
him the answer.

The mark  
+  
of A. B. { Sworn by the defendant A. B., at (*State where, and when, as in No. 15, ante*), before me : I having first truly, distinctly, and audibly read over the contents of this answer to the said defendant, and he appeared to understand the same :

(*Signature and style of office* : *see ante*, No. 15).

*To the witness* : Is that your name and handwriting ?

You do swear that you have truly, distinctly, and audibly read over the contents of this answer to the defendant A. B., and that he appeared to understand the same, and made his mark to this answer in your presence—So help you God. 258.  
Oaths and jurat,  
where a witness  
reads the  
answer to a  
marksman.

*To the defendant* : Is that your mark ?

You do swear that so much of this your answer as concerns your own acts and deeds is true to the best of your knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named you believe to be true—So help you God.

The mark  
+  
of A. B. { Sworn by the defendant A. B., at (*State where, and when, as in No. 15, ante*) : C. D., the witness to the mark of the defendant A. B., having been first sworn

(g) The signature of the guardian is alone required.

(h) The committee need only sign his name once.

Witness to the mark of the said A. B.:  
C. D.,  
of (*Residence, and addition*). { that he had truly, distinctly, and audibly read over the contents of this answer to the said defendant; and that the said defendant appeared to understand the same, and made his mark thereto, in the presence of the deponent C. D.:  
before me (&c.: see ante, No. 15).

255.  
Oath and jurat,  
to separate  
answer of a  
married woman  
under an order.

*To the defendant*: Is that your name and handwriting?

You do swear that so much of this your answer as concerns your own acts and deeds is true to the best of your knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named you believe to be true—So help you God.

A. B. { Sworn at (*State where, and when, as in No. 15, ante*),  
by the defendant A. B.—*If the order to answer separately is produced, add*: pursuant to an order dated the — day of —, 18—, by which she is at liberty to answer separate from her husband (i),  
before me (&c.: see ante, No. 15).

256.  
Oath of a Scotch  
Covenanter,  
&c., and jurat.

*To the defendant*: Is that your name and handwriting?

*To be uttered by him*: I, A. B., do solemnly and sincerely declare that (*State in what form, and with what ceremony, an oath will be binding; as*: holding up my right hand, and declaring to the truth of this my answer, as I shall answer to God at the great day of judgment), is a form of oath that is most binding on my conscience; and I do solemnly and sincerely declare, that so much of this my answer as concerns my own acts and deeds is true to the best of my knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named I believe to be true (*Repeat the binding form; as*: as I shall answer to God at the great day of judgment).

A. B. { Sworn at (*State where, and when, as in No. 15, ante*),  
before me (&c.: see ante, No. 15).

257.  
Declaration and  
affirmat. in the  
case of a Quaker  
or Moravian.

*To the defendant*: Is that your name and handwriting?

*To be uttered by him*: I, A. B., do solemnly, sincerely, and truly declare and affirm, that so much of this my answer as concerns my own acts and deeds is true to the best of my

(i) *Taylor v. Forbes* (1863, T. No. 71). If the order is not produced to the officer, no reference should be made to it in the jurat; but in such case, the order must be produced at the Record and Writ Clerk's office, on the answer being presented for filing.

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knowledge, and that so much thereof as concerns the acts and deeds of any other person or persons therein named I believe to be true.

A. B. { Affirmed by the defendant A. B.: he being one of the people called Quakers (j) [Or, one of the persuasion of the people called Quakers—Or, of the United Brethren called Moravians—as the case may be (k)]: at (State where, and when, as in No. 15, ante), before me (dc. : see ante, No. 15).

Formal parts : see ante, No. 52a.

Take notice, that I have this day filed the answer [Or, answer and disclaimer] of the defendant A. B. to the plaintiff's bill.

962.  
Notice of filing  
an answer.

Formal parts : see ante, No. 53.

on the part of the defendant B. A., that a certain paper writing purporting to be the joint and several answer of the defendants B. A., and C. B., to the bill of complaint of the plaintiff [or as may be], and to which answer the defendant B. A. only has yet been sworn, may be received and filed as the answer of the defendant B. A. only to the said bill.

963.  
Notice of mention,  
to file answer as that of  
A. only: though  
purporting to  
be the answer  
of A. and B.

Formal parts : see ante, No. 52a.

Take notice, that I require to be furnished with a true copy of the answer of the defendant A. B. to the plaintiff's bill.

964.  
Demand of  
office copy answer.

### SECTION III.—FURTHER ANSWERS—ANSWERS TO AMENDED BILLS.

In Chancery.

Between (Set out the title of the cause).

The further answer—Or, second further answer—of A. B., the above named defendant [Or, one of the above named defendants], to the bill of complaint of the above named plaintiff.

965.  
Title and  
heading of a  
further answer  
to original bill.

In answer, &c.

(j) Taylor v. Forbes (1863, T. No. 71).

(k) Where it appears by the answer that the defendant is a Quaker, &c., he need not be described as such in the jurat.



**266.**  
The like, of an answer to a bill amended before answer.

*Title, &c., as in No. 265.*

The answer of A. B., the above, &c., to the amended bill [Or, to the secondly—Or, thirdly—amended bill] of complaint of the above named plaintiff.

In answer, &c.

**267.**  
Title and heading of an answer to amendments.

*Title, &c., as in No. 265.*

The further answer of A. B., the above, &c., to the bill of complaint of the above named plaintiff, and the answer of the same defendant to the amended bill of complaint of the said plaintiff.

In answer, &c.

**268.**  
The like, of a further answer to original and first amended bill, and of answer to secondly amended bill.

*Title, &c., as in No. 265.*

The further answer of A. B., the above, &c., to the original and first amended bill of complaint of the above named plaintiff, and the answer of the same defendant to the secondly amended bill of complaint of the said plaintiff.

In answer, &c.

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#### SECTION IV.—AMENDING ANSWERS—AND SUPPLEMENTAL ANSWERS.

**269.**  
Notice of motion, for leave to amend an answer.

*Formal parts : see ante, No. 53.*

on the part of the defendant A. B., that the answer filed by him on the — of —, 18—, to the plaintiff's bill may be amended in the respects following, namely: (*State the proposed amendments ; as thus :* by inserting the name "John Jones" in the title of the said answer; by substituting the date "1863," for the date "1836," in the 4th paragraph thereof; and by adding thereto the name of —, Esquire, the counsel by whom the said answer was settled and signed). And take notice that on such motion will be read (*as in No. 53*).

**270.**  
Notice of motion, by plaintiff, that an evasive answer may be taken off the file.

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#### SECTION V.—TAKING ANSWERS OFF THE FILE.

*Formal parts : see ante, No. 53.*

on the part of the plaintiff, that a certain paper writing filed

in this cause by the defendant A. B. on the — of —, 18 —, and purporting to be his answer to the plaintiff's bill of complaint [*or as may be*], may be taken off the file of this Court (*Stale why*); and that the said defendant may be ordered to pay to the plaintiff his costs occasioned by the said answer, and of this application. And take notice, that on such motion will be read (*&c., as in No. 53*).

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that a certain paper writing (*&c., as above, to Court*) for irregularity: (*Describe the irregularity*); and that the said defendant may be ordered to pay to the plaintiff his costs occasioned by the said answer, and of this application. And take notice, that on such motion will be read (*&c., as in No. 53*).

271.  
The like, is to  
an irregular  
answer.

## CHAPTER XI.

### THE JOINDER OF SEVERAL DEFENCES.

—:O:—

#### In Chancery.

Between (*Set forth the title of the cause*).

The demurrer and answer of A. B., the above named defendant [*Or, one of the above named defendants*], to the bill of complaint [*Or, amended bill of complaint*] of the above named plaintiff.

272.  
Title, and  
heading of joint  
demurrers, and  
answers.  
(1.) Demurrer  
and answer.

The demurrer of A. B., the above named defendant [*Or, one of the above named defendants*], to part of the bill, and the answer of the said defendant to the remainder of the bill, *&c.*

(2.) Demurrer  
to part, and  
answer to  
rest.

The joint and several demurrer and answer of A. B., and C. D., the [*Or, two of the*] above named defendants, to the bill, *&c.*

(3.) Joint and  
several de-  
murrer and  
answer.

The joint demurrer and answer of A. B., and C. his wife, the [*Or, two of the*] above named defendants, to the bill *&c.*—*Or, if they have married since she was made a defendant, say: The joint demurrer, &c., of A. B., and C. his wife, lately, and in the bill called, C. D., spinster—Or, widow—to the bill, &c.*

(4.) Husband  
and wife.

273.  
General form of  
a demurrer and  
answer.

## In Chancery.

Between (*Set forth the title of the cause*).

The demurrer and answer of A. B, the above named defendant [*Or, one of the above named defendants*], to the bill of complaint [*Or, amended bill of complaint*] of the above named plaintiff.

(1.) Demurrer.

I, the defendant A. B., by protestation, not confessing or acknowledging all or any of the matters and things in the said bill contained to be true, in such manner and form as the same are therein set forth and alleged, as to so much of the said bill as seeks, (*State what*), and also as to so much of the said bill as seeks, &c., do demur thereto.

And as to the discovery and relief sought by the said bill, save so much thereof as relates to the premises therein mentioned to be situate at S., in the county of D., for cause of demurrer I show that, &c.

And as to so much of the said discovery and relief as relates to the said premises at S. aforesaid, for cause of demurrer I show that, &c.

Wherefore, and for divers other good causes of demurrer appearing in the said bill, I pray the judgment of this Honorable Court whether I shall be compelled to make any answer to such parts of the said bill as I have hereinbefore demurred to.

(2.) Answer.

And I, the defendant A. B., not waiving my said several demurrers, but wholly relying and insisting thereon, for answer to so much of the said bill as I am advised it is material or necessary for me to make answer unto, say as follows, &c.

(*Name of counsel.*)

274.  
General form of  
a joint and  
several demur-  
rer, and joint  
and several  
answer.

## In Chancery.

Between (*Set forth the title of the cause*).

The joint demurrer of the above named defendants A. B., and C. his wife to part, and the joint and several answer of the said A. B. and C. his wife to the other part, of the bill of complaint of the above named plaintiff.

(1.) Demurrer.

We, the defendants A. B. and C. his wife, by protestation, (*Continue as in No. 273, ante, to and alleged*), as to so much of the said bill as seeks, &c., do demur thereto; and for cause of demurrer show that, &c., and for further cause of demurrer show that, &c.

For which reason, and for divers other causes, we do demur to so much of the said bill as aforesaid; and humbly pray the judgment of this Honorable Court whether we shall make any further or other answer thereto.

(2.) Answer.

And as to so much of the said bill as we have not before respectively demurred to, we, the defendants A. B., and C. his wife, in no sort waiving the benefit of the said demurrer, but

wholly relying and insisting thereon, in answer to the residue of the plaintiff's said bill, or to so much thereof as we are advised it is material or necessary for us or either of us to answer, severally say, as follows, &c.

(Name of counsel.)

## CHAPTER XII.

### DISMISSING BILLS, OTHERWISE THAN AT THE HEARING, AND STAYING PROCEEDINGS.

—:O:—

#### SECTION I.—GENERALLY.

*Formal parts: see ante, No. 53.*

on the part of A. B., the plaintiff named in the bill filed in this cause on the — of —, 18—:

275.  
Notice of motion, by sole plaintiff, to dismiss bill filed without his authority.

1. That the said bill may be taken off the file of this Court, or dismissed with costs: such bill having been filed without his authority.

2. That the defendant's costs of this suit may be taxed (Or, by the Master at —); and that Mr. C. D., the solicitor by whom the said bill was filed, may be ordered to pay such costs to the defendants.

3. That in case he shall neglect so to do, and the plaintiff shall pay such costs, or any part thereof, the said C. D. may be ordered to repay to the plaintiff what he shall so pay, together with such costs as he shall be put to by reason of such non-payment.

4. That the said C. D. may be ordered to pay to the plaintiff his costs of this suit, if any, and of this application: to be taxed as between solicitor and client (by the Master at —). And take notice, that on such motion will be read (as in No. 53).

*Formal parts: see ante, No. 53.*

on the part of A. B., one of the plaintiffs named in the bill filed in this cause on the — of —, 18—, that his name may be struck out of the said bill: such bill having been filed without his authority; and that Mr. C. D., the solicitor by whom the said bill was filed, may be ordered to pay to the said A. B. his costs, if any, of this suit, and his

276.  
Notice of motion, by a co-plaintiff, to strike his name out of bill filed without his authority.

costs of this application : to be taxed as between solicitor and client (by the Master at —). And take notice, that on such motion will be read (*as in* No. 53).

277.  
Affidavit in  
support of motion.

In Chancery.

(Title.)

I, A. B., of (*residence and addition*), the above named plaintiff [*Or*, one of the above named plaintiffs], make oath and say as follows :

1. On the — of —, 18—, I for the first time became aware that the bill in this cause had been filed in my name as the plaintiff [*Or*, one of the plaintiffs] therein.

2. I am informed and believe that the object of the said bill is (*State object, shortly ; as thus* : to have the estate of E. F., deceased, administered under the direction of this Honorable Court).

3. Mr. C. D., the solicitor by whom, as I am informed and believe, the said bill has been filed, or any person on his behalf, has never been authorized by me, or by my direction, to file the said bill, or to institute or prosecute any other suit or proceeding in my name, or on my behalf, relating to the subject matter of the said bill. I have never consented to or acquiesced in, and I desire to repudiate this suit.

4. *State any communications had with the solicitor who filed the bill, and explain the cause of any delay in applying, since deponent discovered that the suit had been instituted.*

5. *Show means of knowledge.*

278.  
Notice of motion, for an inquiry which of two suits is for an infant plaintiff's benefit.

*Titles of both suits—and formal parts : see ante, No. 53.*  
on behalf of the above named infant plaintiff, by C. D., his next friend in the first [*Or*, second] mentioned suit [*Or*, on behalf of the defendant E. F.], that an inquiry may be made which of these suits it will be most for the benefit of the infant plaintiff to prosecute ; and that, in the mean time, all other proceedings in these suits may be stayed. And take notice, that on such motion will be read (*&c.*, as in No. 53).

279.  
Notice of motion to dismiss one suit, on the Master's certificate that the other only should be prosecuted.

*Titles of both suits—and formal parts : see ante, No. 53.*  
on behalf of the above named infant plaintiff, by C. D., his next friend in the first [*Or*, second] mentioned suit [*Or*, on behalf of the defendant E. F.], that all further proceedings in the second [*Or*, first] mentioned suit may be stayed ; and that G. H., the next friend of the plaintiff therein, may be ordered to pay to (the said C. D. and) the defendants their costs of and occasioned by such suit, and of the application for the order dated the — of —, 18— (*Order directing*

*inquiry which of the two suits should be prosecuted), and of the inquiry thereby directed, and of and relating to this application. And take notice, that on such motion will be read (&c., as in No. 53).*

*Formal parts: see ante, No. 53.*

on behalf of the infant plaintiff, by C. D., of (*residence and addition*), his next friend for the purpose of this application [*Or, on behalf of the defendant E. F.*], that the bill filed in this cause may stand dismissed; and that G. H., the next friend of the plaintiff therein, may be ordered to pay to the defendant his costs of and occasioned by this suit, and (to the defendant, and the said C. D., their costs) of this application:

150.  
Notice of motion for dismissal of, or inquiry as to, a single suit by an infant.

*Or*, that an inquiry may be made whether this suit has been properly instituted; and whether it will be fit and proper, and for the benefit of the infant plaintiff, that this suit should be further prosecuted; and if so, whether the said G. H. is a proper person to be the plaintiff's next friend; and if he is not, that some proper person may be approved as such next friend in his stead.

And that all other proceedings in this suit may be stayed, in the mean time. And take notice, that on such motion will be read (&c., as in No. 53).

*Title—and address to the Judges: see ante, No. 54.*

The humble petition of the plaintiff, late an infant, but now of full age.

151.  
Petition by sole plaintiff, on coming of age, to dismiss bill with costs before decree.

Showeth as follows:

1. Your petitioner, when an infant, by C. D., his next friend, filed his bill in this cause against the defendants: to which they appeared; but no decree has yet been made therein.

2. Your petitioner has now attained his age of twenty-one years; and is not desirous to proceed any further in the said cause.

Your petitioner therefore humbly prays, that his said bill may stand dismissed out of Court: with costs to be paid by him to the said C. D., and to the defendants.

And your petitioner will ever pray, &c.

*Formal parts: see ante, No. 53.*

on behalf of the plaintiff, late an infant, but now of full age, that on payment by him to C. D., late his next friend, and to the defendants, of their costs of this suit, all further proceedings therein may be stayed. And take notice, that on such motion will be read (&c., as in No. 53).

152.  
Notice of motion, to stay proceedings after decree, in like case.

283.  
Notice of motion, by a co-plaintiff, on coming of age, to strike out his name as plaintiff

*Formal parts: see ante, No. 53.*

on behalf of the plaintiff A. B., late an infant, but now of full age, that the name of the plaintiff A. B. may be omitted in all future proceedings in this cause, as a party co-plaintiff thereto. And take notice, that on such motion will be read (*&c.*, as in No. 53).

284.  
Notice of motion, by a married woman, that bill filed on her sole behalf, without her consent, may be dismissed.

*Formal parts: see ante, No. 53.*

on the part of the above named plaintiff A. B., the wife of (the defendant) C. B., by E. F., of (*residence and addition*), her next friend for the purpose of this application, that the bill filed in this cause on the — of —, 18—, may be taken off the file of this Court, or dismissed with costs: such bill having been filed without the consent of the said A. B.; and that the above named G. H. (*Next friend in bill*) may be ordered to pay to the defendants their costs of this suit; and also to pay to the said E. F. the costs, if any, of the said A. B. of this suit, and her costs of this application. And take notice, that on such motion will be read (*&c.*, as in No. 53).

285.  
The like notice, where the married woman is a co-plaintiff.

*Formal parts: see ante, No. 53.*

on the part of (*Continue as in No. 284, to application*), that the name of the said A. B. may be struck out of the bill filed in this cause on the — of —, 18—: such bill having been filed without her consent; and that the above named C. D. (*Next friend in bill*) may be ordered to pay to the said E. F. the costs, if any, of the said A. B. of this suit, and her costs of this application. And take notice, that on such motion will be read (*&c.*, as in No. 53).

286.  
Notice of motion by a defendant, that a married woman plaintiff may name a new, in lieu of a deceased, next friend.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that the plaintiff C. D. may be ordered within (one month) from this time to name and appoint a new and sufficient next friend in this suit, in lieu of E. F., now deceased; or, in default thereof, that the plaintiff's bill may stand dismissed with costs. And take notice, that on such motion will be read (*&c.*, as in No. 53).

287.  
The like, to stay proceedings till a new, in lieu of a bankrupt, next friend is appointed.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that all further proceedings in this suit may be stayed until a new and sufficient next friend shall have been named and appointed by the plaintiff, in lieu of C. D., her present next friend: who has become insolvent; but without prejudice to the liability of the said C. D. to the costs already incurred by the defendant



A. B. in this suit. And take notice, that on such motion will be read (*&c.*, as in No. 53).

*Formal parts : see ante, No. 53.*

on the part of the plaintiff, that his bill may stand dismissed as against the defendant [*Or*, all the defendants—*Or*, the defendants A. B., and C. D.], without costs. And take notice, that on such motion will be read (*&c.*, as in No. 53).

288.  
Notice of motion, by plaintiff, to dismiss bill after answer, without costs.

*Formal parts : see ante, No. 53.*

on behalf of the plaintiff, that his bill may stand dismissed as against the defendants A. B., and C. D., with costs; but without prejudice to the question how such costs are ultimately to be borne, as between the plaintiff and other defendants.

289.  
Notice of motion, by plaintiff, to dismiss bill as to some of the defendants, after answer, but without prejudice.

*Formal parts : see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that, by consent, the plaintiff's bill in this cause may stand dismissed [*Or*, that all further proceedings in this cause may be stayed], on the terms following, namely: (*State the terms*); and that all proper directions for carrying the said terms into effect may be given. And take notice, that on such motion will be read (*&c.*, as in No. 53).

290.  
Notice of motion, to dismiss bill, or stay proceedings, on special terms by consent.

*Formal parts : see ante, No. 53.*

on the part of the defendant A. B. that (*State the terms proposed ; as thus* : upon payment by him to the plaintiff within (three weeks) of the amount of the debt due to the plaintiff from the estate of A. B., the testator in the plaintiff's bill named, on the promissory note therein mentioned, and of interest thereon at £6 per cent. per annum from the — of —, 18—, till payment, and of the plaintiff's costs of this suit: to be taxed), the plaintiff's bill may stand dismissed—*Or*, all further proceedings in this suit may be stayed—*If there are other defendants, add* : as against the said defendant A. B. And take notice, that on such motion will be read (*&c.*, as in No. 53).

291.  
Notice of motion, by defendant, to dismiss bill, or stay proceedings, on submitting to satisfy plaintiff's demand.

*Formal parts : see ante, No. 53.*

on the part of the defendant A. B. :

1. That an account may be taken of what is due to the plaintiff for principal money and interest, in respect of his debt in the plaintiff's bill mentioned; and that the costs of this suit, and of this application, may be taxed (by the Master at —).

292.  
Another form thereof.



2. That upon payment of the amount of the said principal, interest, and costs, by the defendant to the plaintiff, within (one week) after the Master's report shall have become absolute, the plaintiff's bill (*Continue as in No. 291, to the end*).

293.  
Notice of motion, by a subsequent incumbrancer, to dismiss a foreclosure and redemption suit, with costs, as against his co-defendants, on payment of a security fund into Court; and for inquiry as to amount due to plaintiff.

*Formal parts: see ante, No. 53.*

on the part of the defendant D. L. H.:

1. That he may, on or before the — day of —, pay the sum of £ — into the bank, to the credit of this cause; and that the same may be laid out in Dominion Stock, and the interest invested and accumulated; but not otherwise dealt with without notice to him.

2. That upon such payment being made, the plaintiff's bill may stand dismissed as against all the defendants, except the said D. L. H.: with costs to be taxed; and without prejudice to any other suit.

3. That the plaintiff may be directed to pay such costs, when taxed; and be repaid by the defendant D. L. H.

4. That the defendant D. L. H. may pay to the plaintiff, and the said other defendants, respectively, their costs of this application: to be taxed.

5. That, on the undertaking of the defendant D. L. H. to indemnify the plaintiff against any proceeding which may be taken in the mean time, by any party, for redeeming the plaintiff's security, an account may be taken of what is due to the plaintiff for principal and interest in respect of his mortgage securities, in the pleadings mentioned, and for all sums of money properly paid by him in respect of his mortgage securities.

6. That the plaintiff's costs of this suit, and all costs, charges, and expenses properly incurred by him, and by D. J. deceased, the testator in the pleadings named, respectively, in any other suits, or otherwise in respect thereof, may be taxed.

7. That an account may be taken of the rents and profits of the said mortgaged premises, come to the hands of the plaintiff, or to the hands of any other person or persons by his order or for his use, or which he, without his wilful default, might have received.

8. That what shall be coming on the said account of rents and profits, may be deducted from what shall be due to the plaintiff for principal, interest, and costs, as aforesaid; and the balance be certified.

9. That the plaintiff, and the defendant D. L. H., respectively, may be at liberty to apply to this Court, as they may be advised.

10. That in default of payment by the defendant D. L. H. of the said £ —, by the time aforesaid, the costs of the

plaintiff, and the said other defendants, of this application, may be taxed, and be paid to them by the defendant D. L. H. And take notice, that on such motion will be read (*&c.*, as in No. 53).

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that all further proceedings in this cause—*If there are other defendants, add:* as against the said defendant—may be stayed, until after the plaintiffs shall have paid to the said defendant the sum of £—, the amount of the taxed costs directed to be paid by them to him by the order made in the cause of C. v. D., dated the — of —, 18—. And take notice (*as in* No. 53).

294.  
Notice of motion, to stay proceedings, till costs of former suit are paid.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that the plaintiffs may be ordered, on or before the — of —, 18—, to pay to the defendant, the sum of £—, mentioned in the order in this cause dated the — of —, 18—, pursuant to the order made in the cause of C. v. D., dated the — of —, 18—; or, in default thereof, that the plaintiff's bill may stand dismissed out of Court—*If there are other defendants, add:* as against the said defendant—for want of prosecution, without further order: with costs to be paid by the plaintiffs to the said defendant. And take notice (*as in* No. 53).

295.  
Further notice of motion, for dismissal of bill, in default of payment.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that all further proceedings in this cause—*If there are other defendants, add:* as against the said defendant—may be stayed until the plaintiffs shall have paid to the said defendant the sum of £—, the amount of the taxed costs payable by them to him, pursuant to the order dated the — of —, 18—. And take notice (*as in* No. 53).

296.  
Notice of motion, to stay proceedings, till payment by plaintiff of costs incurred in the suit.

*Titles of both suits—and formal parts: see ante, No. 53.*

on the part of A. B., the plaintiff in the first mentioned cause [Or, of C. D., the defendant in each of the above mentioned causes—or as may be]:

1. That all further proceedings in the second mentioned cause may be stayed; and that the costs of E. F., the plaintiff therein, up to the time he had notice of the decree in the first mentioned cause dated the — of —, 18—, including his costs of this application, may be taxed.

Where assets admitted: 2. That such costs may be paid to

297.  
Notice of motion, to stay proceedings in one of two concurrent creditors' suits, after a decree in the other only.

the plaintiff E. F., by the defendant C. D. [*or as may be*], out of the assets of G. H., the testator in the pleadings named; and that the plaintiff E. F. may be at liberty to go in under the said decree, and prove his claim, against the assets of the said G. H.

*Or where assets denied:* 2. That the plaintiff E. F. may be at liberty to go in under the said decree, and prove his claim, and the amount of his said costs, against the assets of the said G. H.

3. That the costs of the defendant C. D. of the second mentioned cause, and the costs of the plaintiff A. B., and the defendant C. D. [*or as may be*], of this application, may be costs in the first mentioned cause.

## SECTION II.—FOR WANT OF PROSECUTION.

**300.**  
Notice of motion, to dismiss bill for want of prosecution.

*Formal parts: see ante, No. 53.*  
on the part of the defendant A. B., that the plaintiff's bill in this cause may stand dismissed—*If there are other defendants, add:* as against the said defendant—for want of prosecution: with costs to be paid by the plaintiff to the said defendant, to be taxed by the Master at \_\_\_\_\_. And take notice (*as in No. 53*).

**300.**  
Notice of motion, to dismiss after a default, where the bill has not been dismissed in case of default.

*Formal parts: see ante, No. 53.*  
on the part of the defendant A. B., that, unless the plaintiff amends his bill, pursuant to the order dated the \_\_\_\_ of \_\_\_, 18—, within one week, the said bill may stand dismissed—*If there are other defendants, add:* as against the said defendant—with costs to be paid by the plaintiff to the said defendant. And take notice (*as in No. 53*).

**300.**  
Notice of motion, to enlarge the time limited by plaintiff's undertaking to speed the cause.

*Formal parts: see ante, No. 53.*  
on the part of the plaintiff, that the time limited by the order dated the \_\_\_\_ of \_\_\_, 18—, for the plaintiff to amend his bill [*Or, file replication—Or, serve notice of motion for a decree—Or, set down this cause for hearing—or as may be*], may be enlarged to the \_\_\_\_ of \_\_\_, 18—. And take notice (*as in No. 53*).

**301.**  
Notice of motion, to restore bill.

*Formal parts, see ante, No. 53.*  
on the part of the plaintiff, that notwithstanding he has not amended his bill [*or as may be*], in this cause, pursuant to

the order dated the \_\_\_\_\_ of \_\_\_\_\_, 18—, his bill may be restored to the file of this Court. And take notice, that (as in No. 53).

SECTION III.—WHERE THE SUIT HAS ABATED, OR BECOME OTHERWISE DEFECTIVE.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that C. D., and E. F., the legal personal representatives [or as may be] of the late plaintiff G. H., now deceased, may be ordered, within (one month), to obtain and serve on the said defendant an order to revive this suit; or, in default thereof, that the plaintiff's bill may stand dismissed—*If there are other defendants, add: as against the said defendant—for want of prosecution.—* And take notice (as in No. 53).

302.  
Notice of motion, by defendant, to dismiss bill, unless prosecuted by representatives of deceased sole plaintiff.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that the plaintiff C. D. (surviving plaintiff) may be ordered, within (Continue as in last Form, to the end, and add): with costs to be paid by the said plaintiff C. D. to the said defendant. And take notice (as in No. 53).

303.  
The like, unless prosecuted by surviving co-plaintiff.

*Formal parts: see ante, No. 53.*

on the part of A. B., of (residence and addition), and C. D., of &c., the legal personal representatives of the late defendant E. F., now deceased, that the plaintiff may be ordered, within one month, to obtain and serve on them an order to revive this suit; or, in default thereof, that the plaintiff's bill may stand dismissed—*If there are surviving defendants, add: as against the said A. B., and C. D.—for want of prosecution.*

304.  
Notice of motion, by representatives of deceased defendant, to dismiss suit, unless revived against them.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that C. D., and E. F., the assignees [Or, that C. D., the official assignee—Or, creditors' assignees] of the estate and effects of the above named plaintiff: who has been adjudicated an insolvent: may be ordered, within (three weeks) to take proper supplemental proceedings in this suit, for the purpose of prosecuting the same against the said defendant; or, in default thereof,

305.  
Notice of motion, by defendant, to dismiss or stay suit, unless prosecuted by assignees of bankrupt sole plaintiff.

## DISMISSING BILLS, AND STAYING PROCEEDINGS.

*If before decree*: that the plaintiff's bill may stand dismissed—*If there are other defendants, add*: as against the said defendant—without further order.

*Or, if after decree*: that all further proceedings in this suit—*If there are other defendants, add*: as against the said defendant—may be stayed. And take notice (as in No. 53).

**306.**  
Order dismissing bill with costs.

In Chancery. } ——— the ——— day of ———,  
A. D. 18—. }  
Between

Upon the application of the defendant ———, and upon hearing read ———: It is ordered, that the plaintiff's bill of complaint be, and the same is hereby dismissed out of this Court as against the said defendant ———.

And it is further ordered, that the plaintiff do pay to the said defendant the costs of the suit forthwith, after the taxation thereof by the Master of this Court at ———.

Entered, 18 . }  
Order Book, No. p. }

## Cases of Election.

**307.**  
Notice of motion, by defendant, for plaintiff to elect.

*Formal parts*: see ante, No. 53.

on behalf of the defendant A. B. for the usual order for the plaintiff to elect whether he will proceed in this Court, or in his pending action at law for the same matter. And take notice, that (as in No. 53).

**308.**  
Notice of motion to discharge order to elect.

*Formal parts*: see ante, No. 53.

on the part of the plaintiff, that the order made in this cause, dated the — of —, 18—, whereby it was ordered that (*Recite the ordering part*) may be discharged: with costs to be paid by the defendant A. B. to the plaintiff. And take notice (as in No. 53).

**309.**  
Ordinary form of election.

In Chancery.  
(Title.)

In pursuance of the order made in this cause, dated the — day of —, 18—, the plaintiff hereby elects to proceed in this Court [*Or, to proceed at law*]. Dated this — day of —, 18—.

C. D., the plaintiff above named, in person.

*Or,*

E. F., solicitor for the plaintiff above named.

*Formal parts: see ante, No. 52.*

Take notice, that I have this day filed the plaintiff's election, pursuant to the order dated the — of —, 18—.

310.  
Notice of same having been filed.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that the time limited by the order dated the — of —, 18—, for the plaintiff to make his election, may be enlarged to the — of —, 18—. And take notice (*as in No. 53*).

311.  
Notice of motion, for further time to elect.

### CHAPTER XIII.

#### MOTION FOR DECREE.

—:0:—

In Chancery.

(*Short title.*)

We consent to notice of motion for a decree in this cause being served, notwithstanding the time allowed to answer the plaintiff's bill has not expired. Dated this — day of —, 18—.

312.  
Consent to notice of motion being served, before time to answer has expired.

C. D., solicitor for defendant E. F.

G. H., solicitor for all the other defendants.

*Formal parts: set ante, No. 53.*

on the part of the plaintiff, that the time within which he may serve notice of motion for a decree or decretal order (*If so: or file replication, or set down this cause to be heard on bill and answer, or obtain and serve an order for leave to amend the bill*), may be enlarged to the — of —, 18—; and that the costs of this application may be costs in the cause. And take notice (*as in No. 53*).

313.  
Notice of motion, for further time to serve notice of motion.

In Chancery.

(*Short title.*)

Take notice, that this Honorable Court will be moved [*or as may be: see ante, No. 53*], at the expiration of — from the service of this notice on you (*Or, on the — day of —*), or so soon thereafter as counsel can be heard, by counsel on behalf of the plaintiff, for a decree according to

314.  
Notice of motion for decree.

the prayer of the plaintiff's bill in this cause [Or, in the terms set forth in the schedule hereto].

And take also notice, that a list of the affidavits (*If so : and answers*) intended to be used by the plaintiff in support of such motion is set forth at the foot of this notice.

Dated this — day of —, 18—.

(*Name, &c., of solicitor or party giving the notice :*)

To all the above named defendants; and to  
their respective solicitors, or agents, in this  
cause [or as may be].

The list above referred to.

1. Affidavit of A. B., filed —, 18—.
2. Joint Affidavit of C. D., and E. F., } both filed —, 18—.
3. Affidavit of G. H., }
4. Answer of the defendant L. M., filed —, 18—.
5. Further answer of the same defendant, filed —, 18—.
6. Answer of the defendant N. O., filed —, 18—.

*Formal parts : see ante, No. 53.*

**315.**  
Notice of motion, by plaintiff, for leave to use affidavit filed after notice of motion served.

on the part of the plaintiff, that he may be at liberty to read and use, in support of his motion for a decree, the affidavit of W. D., filed [Or, sworn] the — of —, 18 —, as if the said affidavit had been included in the list of affidavits set forth at the foot of the notice of such motion which has been served [or as may be]. And take notice (*as in No. 53*).

*Formal parts : see ante, No. 53.*

**316.**  
Notice of motion, for time to file affidavits in answer to the motion.

on the part of the defendant A. B., that the time limited by the Consolidated Orders for the applicant to file affidavits in answer to the plaintiff's motion for a decree, may be (further) enlarged to the — day of —, 18 —; and that the costs of this application may be costs in the cause. And take notice (*as in No. 53*).

*Formal parts : see ante, No. 52.*

**317.**  
Notice of filing defendant's affidavits (and intention to read answer).

Take notice, that I have this day filed, on behalf of the defendant A. B., affidavits of the following persons in answer to the plaintiff's motion for a decree, namely: C. D., E. F., G. H., &c.—*If so :* and that the said defendant also intends to read, on the said motion, his answer filed the —, 18 —, and the answer of the defendant W. D. filed the —, 18 — [or as may be], to the plaintiff's bill.

*Formal parts : see ante, No. 53.*

on the part of the defendant A. B., that notwithstanding the time limited for filing affidavits in answer to the plaintiff's motion for a decree has expired, the applicant may be at liberty to read and use, in answer to the said motion, the affidavit of C. D., filed the \_\_\_\_\_ of \_\_\_\_\_, 18— (or as may be), in addition to the affidavits already filed by the said defendant—*If the time allowed has expired, add :* and that the plaintiff may have \_\_\_\_\_ days to file an affidavit or affidavits in reply. And take notice (as in No. 53).

318.

Notice of motion, by defendant, for leave to use additional affidavit in answer to the motion.

*Formal parts : see ante, No. 53.*

on the part of the plaintiff, that the time limited by the Consolidated Orders for the applicant to file affidavits in reply to the affidavits filed by the defendants (*If not all, name the particular defendants*), in answer to the plaintiff's motion for a decree, may be (further) extended to the \_\_\_\_\_ day of \_\_\_\_\_, 18—; and that the costs of this application may be costs in the cause. And take notice (as in (No. 53)).

319.

Notice of motion, for time to file affidavits in reply.

*Formal parts : see ante, No. 52.*

Take notice, that I have this day filed, on behalf of the plaintiff, the affidavits of A. B., C. D., &c., in reply to the affidavits filed in answer to the plaintiff's motion for a decree.

320.

Notice of filing affidavits in reply.

*Formal parts : see ante, No. 53.*

on the part of the plaintiff, that, notwithstanding the time limited for filing affidavits in reply has expired, he may be at liberty to read and use, in support of his motion for a decree, the affidavit of E. F., filed [*Or, sworn*] the \_\_\_\_\_ of \_\_\_\_\_, 18—, in addition to the affidavits in reply already filed by the plaintiff [*or as may be*]. And take notice (as in No. 53).

321.

Notice of motion, to use additional affidavit in reply.

*Proceed as in No. 45, ante, to the end ; and add :*

2. There was set forth at the foot of the [*Or, each*] copy served as aforesaid of the said notice, a list of the affidavits (*If so : and answers*) intended to be used in support of the said motion.

322.

Affidavit of service of notice of motion for decree.

In Chancery.

A. } The evidence in this cause has been completed and  
v. } filed [*Or, There is no evidence to be filed in this*  
B. } cause].

323.

Consent to the motion being set down prematurely.



We therefore consent to this cause being at once set down to be heard on motion for decree. Dated this — day of —, 18 —.

C. D., solicitor for the plaintiff.

E. F., solicitor for all the defendants.

## CHAPTER XIV.

### REPLICATION.

—:O:—

**394.**  
Replication referred to in Order 149, being Schedule II mentioned in that order.

In Chancery.

Between—A. B.....Plaintiff,  
and

C. D., E. F., and G. H.....Defendants.

I admit, &c., and I join issue with the answer of the defendant, C. D., except in so far as I have herein made admissions in regard to allegations contained in such answer, and I will hear the cause upon bill and answer against the defendant, E. F., and *pro confesso* against the defendant G. H. (*as the case may be.*)

**395.**  
Consent to replication being filed, notwithstanding time to answer has not expired.

I consent to the within replication being filed, notwithstanding the time allowed the defendant A. B. to file an answer to the plaintiff's bill has not expired. Dated this — day of —, 18 —.

C. D., solicitor for the said defendant.

**396.**  
Notice of motion, for enlargement of time to file replication.

*Formal parts : see ante, No. 53.*

on the part of the plaintiff, that the time within which he may file replication (*If so :* or serve notice of motion for a decree or decretal order, or set down this cause to be heard on bill and answer, or obtain and serve an order for leave to amend the bill, may be enlarged to the — of —, 18 — ; and that the costs of this application may be costs in the cause. And take notice (*as in No. 53*).

**397.**  
Notice of filing replication.

*Title, and address : see ante, No. 52.*

Take notice, that I have this day filed a replication in this cause.

Dated this — day of —, 18 —.

(*Name, &c., of solicitor or party giving the notice.*)

(*Date and Title.*)—Upon the application of the plaintiff: <sup>328.</sup> who alleged that the plaintiff, on the 10th July, 1862, filed a replication, joining issue with the defendants J. W. B. and C. F., and J. F. since deceased; that pursuant to an order dated the 14th March, 1863, the plaintiff amended his bill by adding the defendant P. R. S.: who is co-devisee with the defendant C. F. under the will of the said J. F.; and that such defendant filed his answer to the said bill on the 6th December, 1863, as by the Record and Writ Clerk's certificate appears: This Court doth order, that the plaintiff be at liberty to file a replication in this cause, joining issue with the defendant P. R. S. <sup>Order, on motion, for leave to file a second replication.</sup>

*Formal parts: see ante, No. 53.*  
on the part of the plaintiff, that he may be at liberty to amend the replication filed by him in this cause, by <sup>329.</sup> (State the proposed amendment; as thus: substituting the word "Thomas" for the word "John," in the title thereof). And take notice (*as in No. 53*). <sup>Notice of motion to amend replication.</sup>

*Formal parts: see ante, No. 53.*  
on the part of the plaintiff, that he may be at liberty to withdraw the replication filed by him in this cause—<sup>330.</sup> Or, to file a second replication in this cause, to the effect that <sup>Notice of motion, for leave to withdraw, or file another replication.</sup> (State what; as thus: he joins issue with the defendant G. H.). And take notice (*as in No. 53*).

## CHAPTER XV.

### EVIDENCE.

—:O:—

#### SECTION I.—ADMISSIONS.

In Chancery.

(*Title of cause.*)

Admissions on the part of the plaintiff and defendant.

It is hereby agreed, on behalf of the plaintiff and defendant respectively, to make the following admissions; and

<sup>331.</sup> Admissions, by agreement.

that these admissions, and the documents mentioned or referred to therein, may be used and read in evidence upon the hearing of this cause, and for all the purposes thereof: save and except all just causes of exception to the admissibility of the same as evidence; that is to say:—

1. That the several deeds specified in the first schedule hereto, and identified by our respective initials thereon, are the deeds of the like respective dates mentioned in the pleadings of this cause; and that the said deeds were respectively executed as they respectively purport to have been.

2. That the several letters specified in the first part of the second schedule hereto, and identified by our respective initials thereon, were respectively signed as they purport to have been; and were received, in due course, by the respective persons to whom such letters respectively purport to be addressed, with the enclosures in such letters referred to, from the persons by whom such letters respectively purport to have been written.

3. That the paper writing marked A., identified by our respective signatures at the foot thereof, contains true copies of the several letters specified in the second part of the second schedule hereto; and that the originals of such letters respectively were duly signed as they purport to have been, and were received, in due course (*Continue as in par. 2, to the end*).

4. That the copies of letters contained in the said paper writing marked A., or any of them, may be read in evidence as primary and the best evidence, and not as secondary evidence, and shall have the same force as if they were the originals of such letters; and that the said original letters shall not be required to be produced, or any evidence required as to the same, or of the proper custody thereof, or as to the non-production thereof.

5. That A. B., in the bill named, died on the — of —, 18 —, intestate, and without having been married.

6. That the defendant C. D. is the eldest son and heir at law of E. F., in the said bill named.

7. That the defendant C. D. is the heir of the said E. F., according to the custom of the manor of W.

We also undertake to produce, for the purposes aforesaid, or any of them, on the hearing of this cause, and otherwise as occasion may require, such of the documents specified in the schedules hereto as are in our possession respectively. Dated this — day of —, 18 —.

T. B., plaintiff's solicitor [*Or, agent*].

J. F., defendant's solicitor [*Or, agent*].

THE FIRST SCHEDULE ABOVE REFERRED TO.

*Deeds.*

Serial Number.	Dates.	Description.	Parties.
1	1854. January 1	Lease . . .	A. B. one part, and C. D. other part.
2	1861. December 31	Conveyance.	E. F. first part, G. H. second part, and J. L. third part.

THE SECOND SCHEDULE ABOVE REFERRED TO.

*Letters.*

Serial Number.	Dates.	By whom written.	To whom sent.
3	1863. April 1 . .	<i>First part.</i> Defendant . . .	Plaintiff.
4	" May 10 . .	J. F. defendant's solicitor . . . }	T. B., plaintiff's solicitor.
5	1863. April 12 . .	<i>Second part</i> L. M. . . . .	N. O.
6	" May 18 . .	P. R. . . . .	S. T.

In Chancery.

(*Title of the cause.*)

We the undersigned solicitors for the plaintiff and defendants respectively, hereby agree to admit upon the hearing of this cause, and for all the other purposes of this suit, that such of the documents mentioned in the schedule hereto as are therein specified to be originals were respectively written, signed or executed as they purport respectively to have been; that such of the said documents as are therein specified as copies are true copies; and that such of the said documents as are therein stated to have been served, sent or delivered were so served, sent or delivered respectively: saving all just exceptions to the admissibility of all such documents as evidence in this suit.

332.  
Another form of  
admissions.

(Dated and signed as in last Form.)

The schedule above referred to.

Originals.

Copies.

## SECTION II.—DOCUMENTARY EVIDENCE WHICH PROVES ITSELF.

**333.**  
Certificate verifying extract from a parochial register.

I, A. B., the rector [*Or, curate*] of the parish of —, in the county of —, do hereby certify, that the foregoing is a true copy of an entry in the register book of baptisms [*Or, marriages—Or, burials*] kept for the said parish for the year 18 —. Dated this — day of —, 18 —.

A. B.

**334.**  
Notice of intention to use proceedings in another cause as evidence at the hearing.

*Formal parts: see ante, No. 52.*  
that the plaintiff (*Or, defendant*) intends to read and use at the hearing of this cause, and in all subsequent proceedings therein, all or any of the affidavits filed or to be filed, and depositions, or cross-examinations, if any, taken, or to be taken, in a cause wherein the W. & C. of M. are plaintiffs, and the above named defendant is defendant, as if the same had been filed or taken in this cause: saving all just exceptions to the admissibility of the whole or any of such affidavits, depositions, or cross-examinations, if any, as evidence at the hearing of this cause, and the subsequent proceedings therein.

**335.**  
Notice of motion, for production elsewhere, of documents deposited in the Record and Writs Office.

*Formal parts: see ante, No. 53.*  
on behalf of the plaintiff [*or as may be*], that the proper officer may be directed to attend (*State where, when, and on what proceeding; as thus: the Grand Jury, at the — Court, also the Court and petit jury, at —, on an indictment of — defendant John Brown, for perjury in his answer in this cause*), with (*Describe the documents to be produced; as thus: the record of the said answer; and also an indenture, dated the — of —, 18 —, therein referred to, and deposited by the said defendant in Court pursuant to the order of the —, 18 —*).

An affidavit in support accompanies.

*Formal parts: see ante, No. 12.*

1. *Show the necessity for production of the original documents:*
2. *Show means of knowledge.*

**336.**  
Affidavit in support of the motion.

### SECTION III.—DOCUMENTARY EVIDENCE WHICH DOES NOT PROVE ITSELF.

*Formal parts: see ante, No. 52.*

Take notice, that the plaintiff [*or as may be*] intends, at the hearing of this cause [*or other proceeding: to be here described*], to give in evidence, as proof of the devise or testamentary disposition in his favor of the estate called Whiteacre, in the plaintiff's bill mentioned [*or as may be*], by the will of C. D., in the said bill named, the probate of the said will [*Or, letters of administration with the said will annexed—or as may be*].

**337.**  
Notice of intention to adduce in evidence a probate, &c., as proof of a testamentary disposition of real estate.

*Formal parts: see ante, No. 52.*

Take notice, that the defendant A. B. [*or as may be*] intends, at the hearing of this cause [*or other proceeding: to be here described*], to dispute the validity of the devise or testamentary disposition in favor of the plaintiff [*or as may be*], of the estate called Whiteacre in the plaintiff's bill named, by the will of C. D., in the said bill named [*or as may be*], and referred to in your notice, dated the — day of —, 18 —, in this cause, directed to me [*or as may be*].

**338.**  
Notice of intention to dispute validity of such disposition.

In Chancery.

Between—A. B.....Plaintiff,  
and  
C. D.....Defendant.

**339.**  
Notice to admit documents referred to in Order 157, being Schedule I mentioned in that order.

Take notice, that the plaintiff (or defendant) proposes to adduce in evidence the documents hereunder specified, and that the same may be inspected by the defendant, (or plaintiff,) his solicitor or agent, at —, &c., on —, &c., between the hours of —, &c.; and the defendant (or plaintiff) is hereby required, within four days from the said day, inclusive, to admit that such of the said documents as are specified to be originals, were respectively written, signed or executed, as they purport respectively to have been; that such as are specified as copies are true copies; and that such documents as are stated to have been served,

## EVIDENCE.

sent or delivered, were so served, sent or delivered respectively; saving all just exceptions to the admitting of such documents as evidence in this cause.

Dated this — day of —, 18 —.

Yours &c.

To S. —, &c.

&c., &c. —.

*Here describe the documents: the description may be as follows:—*

## ORIGINALS.

Serial Number.	Description of the Documents.	Dates.
1	Deed of Covenant between A. B. & C. D., first part, and E. F., 2nd part. . . . .	1st January, 1848.
2	Indenture of Lease from A. B. to C. D. . . . .	1st February, 1848.
3	Indenture of Release between A. B. & C. D., 1st part, &c. . . . .	2nd February, 1848.
4	Letter from defendant to plaintiff .	1st March, 1848.
5	Policy of Insurance on goods . .	3rd December, 1848.
6	Bill of Exchange for £100 at 3 months, drawn by A. B. on and accepted by C. D., indorsed by E. F. and G. H. . . . .	1st May, 1840.

## COPIES.

Serial Number.	Description of Documents	Dates.	Original or Duplicate served, sent, or delivered, when, how, and by whom.
7	Register of baptism of A. B., in the parish of X . . . .	1st January, 1808 .	
8	Letter from plaintiff to defendant . .	1st February, 1848 .	Sent by General Post, 2nd February, 1848.

I hereby make the admissions required to be made by the within notice (*If part only of the documents are admitted, qualify the admission; as thus: so far as relates to the documents distinguished therein by the numbers 1, 2, 3, &c.; and I decline to make any other of the admissions required by the said notice*). Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18 —.

340.  
Admission  
thereupon.

E. F., solicitor [*Or, agent*] for the  
defendant [*or as may be*].

*Formal parts: see ante, No. 12.*

1. On the \_\_\_\_\_ day of \_\_\_\_\_, 18 —, I served Mr. E. F., the solicitor [*Or, agent*] in this cause for the defendant A. B. [*or as may be*], with the notice in writing dated the \_\_\_\_\_ of \_\_\_\_\_, 18 —, to admit documents now produced and shown to me, and marked A., and addressed to (*State whom*), by delivering a true copy of the said notice to, and leaving the same with—*If personally, say: the said E. F. at (State where)—Or, if not personally, say: the clerk [Or, servant—or as may be] of the said E. F., at his office [Or, address for service] situate at (State where).*

341.  
Affidavit of  
service of the  
notice, and of  
refusal to admit.

2. The said E. F. inspected the documents specified in the said notice, at the time and place mentioned in such notice [*Or, the said E. F. has inspected the documents specified in the said notice since the aforesaid service thereof—Or, the said E. F. has not, nor has the said defendant [or as may be], or any other person on his behalf, inspected the documents specified in the said notice or any of them since the aforesaid service of the said notice.*]

3. The said defendant [*or as may be*], and his solicitor (and agent) in this cause, have refused or neglected to admit the said documents, or any of them, as required by the said notice; and no admission of the said documents or any of them hath in fact been made by the said defendant [*or as may be*], or by any person on his behalf.

*Show means of knowledge.*

*Formal parts: see ante, No. 52.*

Take notice, that you are hereby required to produce to the Court, at the hearing of this cause [*or as may be*], the following documents, that is to say: (*Describe the documents: For forms of description, see ante, No. 339; and, if necessary, add: and all other deeds, documents, letters, books, papers, and writings whatsoever containing any entry, memorandum, or minute, or other matter, in any wise relating to the matters in question in this cause.*

342.  
Notice to pro-  
duce documents



**343.**  
Affidavit of ser-  
vice thereof.

The same as *ante*, No. 341, par. 1; but substitute "produce," for "admit."

**344.**  
Affidavit of exe-  
cution of a deed,  
and proving  
handwriting of  
other documents

*Formal parts: see ante*, No. 12.

1. I saw (*Describe the party; as thus*: the plaintiff A. B. — *Or*, the defendant C. D. — *Or*, E. F., the testator in the pleadings of this cause named — *or as may be*) sign, seal, and as his act and deed deliver the indenture [*Or*, deed poll], dated the — day of —, 18, and marked A, now produced and shown to me, and purporting to be (*Describe, shortly, what; as thus*: a settlement on the intended marriage of the said plaintiff).

2. The signature "——," set and subscribed to the said indenture [*Or*, deed poll], as the party [*Or*, one of the parties] executing the same, is of the proper handwriting of the said plaintiff [*or as may be*].

3. The signature "——," set and subscribed to the attestation indorsed on the said indenture [*Or*, deed poll], of the execution thereof by the said plaintiff [*or as may be*], is of my proper handwriting.

4. I am well acquainted with the handwriting of the plaintiff A. B. [*or as may be*]: having seen him write.

5. The (sixteen) several letters marked respectively A. B., C. D., &c., now produced and shown to me, and dated respectively the —, 18 —, &c., are of the proper handwriting of the said A. B., and are respectively signed by him [*or as may be*].

6. The signature "——" to the agreement dated the —, 18 —, marked G, now produced and shown to me, is also of the proper handwriting of the said A. B.

**345.**  
Affidavit, veri-  
fying copy of  
correspondence,  
and loss of a  
document.

*Formal parts: see ante*, No. 12.

1. The document marked C, now produced and shown to me, is a copy of a correspondence (*Describe it; as thus*: between me and Messrs. A. B. & Co., the plaintiff's solicitors in this cause), having reference to the subject matter of this suit: omitting signatures and other formal parts of such correspondence.

2. On or about the — of —, 18 —, I received a letter from the defendant A. B. I have lately made diligent search for the said letter, but I have been unable to find it, and I do not know what has become thereof.

3. The paper writing marked A, now produced and shown to me, is a true copy of the said letter: as I know from (*Show means of knowledge.*)

*Formal parts : see ante, No. 12.*

1. In pursuance of instructions received by me from Messrs. A. & B., of —, the solicitors in this cause for (the plaintiff), I attended, on the — of —, 18 —, at the office of C. O., Esquire, one of the examiners of this Honorable Court, situate in — [or as may be], and I then and there took short hand notes of (*State what ; as thus :* the cross-examination of the defendant S. T., on his affidavit filed in this cause the — day of —, 18 —).

346.  
Affidavit by a short hand writer, verifying transcript of his notes.

2. The paper writing marked A, now produced and shown to me, is a transcript of my said notes ; and is a true and correct statement of the proceedings before the said examiner on the said cross-examination [or as may be].

SECTION IV.—PROVING EXHIBITS AT THE HEARING UNDER AN ORDER.—PROCURING ATTENDANCE OF WITNESSES IN COURT.

*Formal parts : see ante, No. 53.*

on behalf of the plaintiff [or as may be], for leave, at the hearing of this cause [or as may be], to prove by affidavit, or *vivâ voce*, the (*Describe what ; as thus :* execution of the deeds specified in the first part of the annexed schedule ; and the handwriting of the letters specified in the second part thereof) : saving all just exceptions.

347.  
Notice of motion, for leave to prove exhibits at the hearing.

The Schedule.

First part. } (*Describe the documents,*  
Second part. } *as in No. 339, ante.*)

In Chancery.

A. } Seal a *subpoena ad test.* (*If so : and duces tecum*), *Prescribe for the subpoena.*  
v. } on behalf of the plaintiff [or as may be], directed  
B. } to (*Insert names of the witness or witnesses*).

*If sealed under an order, add.* Order dated the — day of —, 18 —.

Tested — day of —, 18 —.

(*Name, &c., of solicitor or party issuing the writ : see ante, No. 5, or 9.*)

In Chancery.

CANADA.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith.

349.  
*Subpoena ad test.*

To

GREETING :

We command you, —, that, laying all other matters aside, and notwithstanding any excuse, you personally be and appear before — to testify the truth, according to your knowledge, in a certain suit now pending in our Court of Chancery, wherein — plaintiff, and — defendant, on the part of the — (*In the case of a subpoena duces tecum, add: and that you then and there bring with you and produce—specify the documents to be produced*). And herein fail not at your peril.

Witness the Honorable —, our Chancellor, this — day of —, 18 —, in the — year of our reign.

—, Registrar.

350.  
Indorsement on  
the writ.

The same as *ante*, No. 3, or 8.

#### SECTION V.—OATHS, AFFIRMATIONS, AND DECLARATIONS OF WITNESSES EXAMINED VIVA VOCE.

##### 1. *Before the Court.*

351.  
Ordinary form  
of oath.

*To the witness:* The evidence you shall give to the Court touching the matters in question, shall be the truth, the whole truth, and nothing but the truth—So help you God.

352.  
Oath of a Scotch  
Covenanter.

*To be uttered by the witness:* I, A. B., do solemnly and sincerely declare, that (*State in what form, and with what ceremony, an oath will be binding; as:* holding up my right hand, and declaring to the truth, as I shall answer to God at the great day of judgment), is a form of oath that is most binding on my conscience; and I do solemnly and sincerely declare, that the evidence I shall give to the Court touching the matters in question, shall be the truth, the whole truth, and nothing but the truth (*Repeat the binding form; as:* as I shall answer to God at the great day of judgment).

353.  
Affirmation by a  
Quaker, or  
Moravian.

*To be uttered by the witness:* I, A. B., being one of the people called Quakers [*Or, one of the persuasion of the people called Quakers—Or, of the United Brethren called Moravians—as the case may be*], do solemnly, sincerely, and truly affirm and declare that the evidence I shall give to the Court touching the matters in question shall be the truth, the whole truth, and nothing but the truth.

*To be uttered by the witness :* I, A. B., having been one of the people called Quakers [*Or*, one of the persuasion of the people called Quakers—*Or*, of the United Brethren called Moravians—as the case may be], and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely, and truly declare and affirm, that the evidence I shall give to the Court touching the matters in question shall be the truth, the whole truth, and nothing but the truth.

354.  
Affirmation by  
an ex-Quaker,  
or ex-Moravian.

*To be uttered by the witness :* I, A. B., do, in the presence of Almighty God, solemnly, sincerely, and truly affirm and declare, that I am a member of the religious sect called Separatists, and that the taking of any oath is contrary to my religious belief, as well as essentially opposed to the tenets of that sect. And I do also, in the same solemn manner, affirm and declare, that the evidence I shall give to the Court touching the matters in question shall be the truth, the whole truth, and nothing but the truth.

355.  
Affirmation by  
a Separatist.

*Before an examiner, or Commissioner to examine witnesses.* You swear that you shall true answer make to all such questions as shall be asked you, without favor or affection to either party, and therein you shall speak the truth, the whole truth, and nothing but the truth—So help you God.

356.  
Ordinary form  
of oath.

*To be uttered by the witness :* I, A. B., do solemnly and sincerely declare, that (*State in what form, and with what ceremony, an oath will be binding ; as :* holding up my right hand, and declaring to the truth, as I shall answer to God at the great day of judgment), is a form of oath that is most binding on my conscience ; and I do solemnly and sincerely declare, that I shall true answer make to all such questions as shall be asked me, without favor or affection to either party, and therein I shall speak the truth, the whole truth, and nothing but the truth (*Repeat the binding form : as :* as I shall answer to God at the great day of judgment).

357.  
Oath of a Scotch  
Covenanter, &c.

*To be uttered by the witness :* I, A. B., being one of the people called Quakers [*Or*, one of the persuasion of the people called Quakers—*Or*, of the United Brethren called Moravians—as the case may be], do solemnly, sincerely, and truly affirm and declare, that I shall true answer make to all such questions as shall be asked me, without favor or affection to either party, and therein I shall speak the truth, the whole truth, and nothing but the truth.

358.  
Affirmation by  
a Quaker, or  
Moravian.

357.  
Affirmation by  
an ex-Quaker,  
or ex-moravian.

*To be uttered by the witness :* I, A. B., having been one of the people called Quakers [*Or*, one of the persuasion of the people called Quakers—*Or*, of the United Brethren called Moravians — *as the case may be*], and entertaining conscientious objections to the taking of an oath, do solemnly, sincerely, and truly declare and affirm, that I shall true answer make to all such questions as shall be asked me, without favor or affection to either party, and therein I shall speak the truth, the whole truth, and nothing but the truth.

359.  
Affirmation by  
a Separatist.

*To be uttered by the witness :* I, A. B., do, in the presence of Almighty God, solemnly, sincerely, and truly affirm and declare, that I am a member of the religious sect called Separatists, and that the taking of any oath is contrary to my religious belief, as well as essentially opposed to the tenets of that sect. And I do also, in the same solemn manner, affirm and declare, that I shall true answer make to all such questions as shall be asked me, without favor or affection to either party, and therein I shall speak the truth, the whole truth, and nothing but the truth.

#### SECTION VI.—MANNER OF, AND TIME FOR, TAKING EVIDENCE.

361.  
[Notice of intention to read affidavits or depositions.

*Formal parts :* see ante, No. 52.

Take notice, that the plaintiff [*Or*, defendant A. B.], intends to read, at the hearing of this cause, the following affidavits, and depositions; that is to say:—

The affidavit of C. D., filed ———, 18 —.

The joint affidavit of E. F. and G. H., filed ———, 18 —.

And the depositions of L. M. and N. O., filed ———, 18 —.

[*or as may be*].

362.  
Notice of motion, to enlarge time for taking evidence.

*Formal parts :* see ante, No. 53.

on the part of the plaintiff [*Or*, defendant A. B.], that the time for taking evidence in chief in this cause may be enlarged until the ——— day of ———, 18 —; and that the costs of this application may be costs in the cause. And take notice, that in support of such motion will be read (*as in No. 53*).

*Formal parts : see ante, No. 53.*

on the part of the plaintiff, that he may be at liberty, on the hearing of this cause, to read an affidavit of the plaintiff filed the — day of —, 18 —, notwithstanding the same was not filed in due time before the evidence closed in this cause; and that the defendants P. J., and H. S., may have two weeks' time to file affidavits in this cause in reply to the said affidavit; and be at liberty to use such affidavits in reply at the hearing of this cause. And take notice (*as in No. 53*).

**363.**  
Notice of motion, for leave to use affidavit filed after the evidence is closed.

*Formal parts : see ante, No. 53.*

on the part of the plaintiff, that notwithstanding the time limited for closing evidence in this cause has expired, and that the notice given on behalf of the plaintiff to the defendants for production of witnesses at the hearing of this cause was served the day after the expiration of the time for serving such notice, the plaintiff may be at liberty to read, as evidence on the hearing of this cause, an affidavit of the plaintiff filed the — of —, 18 —; and that the defendants may be ordered to produce the witnesses named in such notice at the hearing of this cause for cross-examination on the part of the plaintiff: with liberty for the said defendants to cross-examine the plaintiff, if they so require. And take notice (*as in No. 53*).

**364.**  
Notice of motion, for leave to use affidavit filed after evidence closed; and for production of witnesses: though notice to produce not duly given

#### SECTION VII.—AFFIDAVITS AND AFFIRMATIONS.—EX PARTE EXAMINATIONS BEFORE AN EXAMINER.

*Formal parts : see ante, No. 52.*

Take notice, that the plaintiff [*Or, defendant A. B.*] intends to examine C. D., of (*Insert description of the witness*), *ex parte*, as a witness on behalf of the said plaintiff [*Or, defendant A. B.*], in this cause, before E. F. Esquire, one of the examiners of witnesses in this Court [*Or, before G. H., the examiner specially appointed for the examination of witnesses in this cause*], at (*State where; as thus: the office of the said examiner in —*), on —, the — day of —, 18 —, at — of the clock in the — noon.

**365.**  
Notice of intention to examine a witness *ex parte*, before an examiner.

In Chancery.

A. B. v. C. D.

I hereby appoint —, the — day of —, at the

**366.**  
Appointment by an examiner, or local Master, for the examination of a plaintiff or defendant under Order 140.

hour of —, for the examination of the plaintiff (*Or*, defendant, on his answer filed in this cause on the — day of —, *as the case may be*), at my Chambers on King Street, in the Town of —.

Dated, &c.

E. E., Special Examiner (*Or*, Examiner  
— *as the case may be*).

**367.**  
Appointment  
for the exami-  
nation of wit-  
nesses on a mo-  
tion pending  
before the Court  
or a Local  
Master.

*Same as No. 366, to "for the examination of" [When add:]* witnesses on the part of the — whose depositions are to be read on a motion (for an injunction—*Or, as the case may be*) now pending before the Court (*Or*, for further time to answer, now pending before A. B., Esquire, Master of this Court at —, *as the case may be*), at my Chambers (&c., *as in No. 366*).

**368.**  
Formal parts of  
an *ex parte*  
examination,  
before an exam-  
iner.

In Chancery.

Between (*Set out the full title of the cause*).

Deposition of a witness taken *ex parte* in the above cause.  
Sworn the — day } A. B., of (*residence and addition*), called  
of —, 18 —. } on behalf of the plaintiff [*or as may be*],  
to be examined *ex parte*, saith as fol-  
lows:

I have had, &c.

A. B.

I certify that the evidence contained in this and the — preceding sheets of paper, was taken before me *ex parte*, and was read over to the deponent: who signed the same in my presence.

C. D., examiner [*Or*, special examiner  
appointed by order in this cause, dated  
the — of —, 18 —].

**369.**  
Certificate  
verifying copies  
of affidavits to  
be printed.

A. v. B.

I hereby certify that this copy is a correct copy of the affidavit of C. D., filed in this cause on the — day of —, 18 —.

E. F., solicitor for the plaintiff [*Or*, de-  
fendant G. H.—*or as may be*].

## SECTION VIII.—VIVA VOCE EVIDENCE.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*Or, defendant A. B.*], that B. A., of (address), barrister at law [*Or, one of the solicitors of this Court—or as may be*], may be appointed examiner for the purpose of taking (*State what; as thus: the examination of witnesses in this cause—Or, the cross-examination of C. D. on his affidavit filed in this cause on the —, 18 —, Or, the ex parte examination of E. F. in this cause*). 370.  
Notice of motion, for the appointment of a special examiner.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*Or, defendant A. B.*]:

1. That in case the defendant J. B. shall be resident at or near M., in the colony of V., or in case the examination of the said defendant can be conveniently taken at M. aforesaid, or in the said colony, J. G. F., of M. aforesaid, Esquire, barrister at law, may be appointed an examiner for the examination of the defendant J. B. in this cause, on behalf of the plaintiff. 371.  
Notice of motion, for the appointment of a special examiner of witnesses abroad.

2. That in case the said J. G. F. shall die or cease to reside within the said colony of V., before the taking or completion of the evidence of the defendant J. B., or shall decline or be unable to take the same, G. M. S., of M. aforesaid, gentleman, may be appointed an examiner for the examination of the said defendant.

3. That in case the defendant J. B. shall be resident at or near A., in the colony of S., or in case the examination of the said defendant can be conveniently taken at A. aforesaid, or within the said colony of L., J. M. S., of A. aforesaid, gentleman, may be appointed an examiner for the examination of the said defendant.

4. That in case the said J. M. S. shall die, or cease to reside within the said colony of S., before the taking or completion of the evidence of the said defendant, or shall decline or be unable to take the same, W. J. W., of A. aforesaid, gentleman, may be appointed examiner for the examination of the said defendant.

5. That in case the evidence of the said defendant is taken at M. aforesaid, notice thereof is to be given to J. T., and G. H., both of M. aforesaid, or to one of them, as the agent there of the defendants S. M. the elder, and S. M. the younger.

6. And that in case the evidence of the said defendant is taken at A. aforesaid, notice thereof is to be given to W. S., and E. G., both of A. aforesaid, or to one of them, as the agent there of the said defendants S. M. the elder, and S. M. the younger.



**372.**  
The like.

*Formal parts: see ante, No. 53.*  
on the part of the plaintiff, that G. W. A., and T. K. B., both of S., in the colony of N. S. W., solicitors, may be appointed examiners for the purpose of taking the examination of witnesses in this cause (as to the claims of Sir C. D., and T. F. J.); and that the said G. W. A. shall alone act as such examiner: unless he shall refuse to act, or is by illness or other sufficient cause incapacitated from acting: in which case, the said T. K. B. shall alone act as such examiner.

**373.**  
Affidavit in support of application to appoint a special examiner.

*Formal parts: see ante, No. 12.*

1. *Show the necessity for the appointment of a special examiner.*
2. *Prove fitness of person proposed; as thus: A. B., of, &c., the person proposed to be appointed special examiner as aforesaid, has no interest in the matters in question in this cause; and in my judgment he is a fit and proper person to be appointed such special examiner.*
3. *Show means of knowledge.*

**374.**  
Summons for time to give notice for production of deponents and witnesses for cross-examination.

*Formal parts: see ante, No. 53.*  
on the part of the plaintiff [Or, defendant A. B.], that the time within which the applicant is at liberty to give notice, requiring the production for cross-examination before the examiner [Or, before the Court, at the hearing of this cause] of any deponent or witness who has made an affidavit or affidavits, or been examined *ex parte*, on behalf of the defendants [Or, plaintiff—or as may be], may be enlarged to the — day of —, 18—; and that the costs of this application may be costs in the cause. And take notice (as in No. 53).

**375.**  
Notice of intention to cross-examine witnesses before an examiner, and for their production.

*Formal parts: see ante, No. 52.*

Take notice, that the plaintiff [Or, defendant A. B.], intends to cross-examine the several deponents and witnesses named and described in the schedule hereto, upon their respective affidavits therein specified, before C. D., Esquire, one of the examiners of this Court [Or, before E. F., the examiner specially appointed for the examination of witnesses in this cause], at (State where; as thus: the office of the said examiner in —, on — day of —, 18—, at — of the clock in the — noon.

*Add, where applicable:* And take also notice, that you are hereby required to produce the said witnesses [Or, to produce E. W., &c., in the said schedule named], for such cross-examination, at the time and place aforesaid.

## THE SCHEDULE ABOVE REFERRED TO.

Name of witness .	Description.	When affidavit filed.
Edward Williams .	No. 80, Lincoln's Inn Fields, Middlesex, Gentleman . .	8th December, 1866.
James Noakes . .	Chertsey, Surrey, Farmer . }	

*Formal parts : see ante, No. 53.*

on behalf of the plaintiff [*Or, defendant A. B.*], that E. F. : who has been served with a *subpœna* to attend and be examined as a witness for the plaintiff [*Or, said defendant*] before C. D., Esquire, an examiner of this Court [*Or, before C. D., the special examiner appointed in this cause*], but has refused to attend : may be ordered to attend and be sworn and examined, as such witness, at such time and place as the examiner shall appoint; or, in default thereof, stand committed to ——— prison.

**376.**  
Notice of motion, for order for attendance or committal of a witness refusing to obey *subpœna*.

An affidavit in support, and the examiner's certificate of default accompany.

*Formal parts : see ante, No. 12.*

1. On the ——— of ———, 18 —, I served E. F., the person named in the *subpœna* next hereinafter mentioned, with a *subpœna* issuing out of, and under the seal of this Honorable Court, by delivering to, and leaving with, the said E. F., at (*State where*), in the (county) of ———, a true copy of the said *subpœna*, and of the indorsement thereon; and I at the same time showed to the said E. F. the said *subpœna* so under seal as aforesaid. By the said *subpœna* the said E. F. was commanded personally to be and appear before (*Recite subpœna, to knowledge*), in this cause, on the part of (*State whom, as in subpœna—And if a subpœna duces tecum, continue thus :* and the said E. F. was thereby also commanded to bring with him and produce certain documents therein specified.

**377.**  
Affidavit in support.

*Formal parts : see ante, No. 53.*

on the part of the plaintiff [*Or, defendant A. B.*], that E. F., of (*residence and addition*) : who has been served with a *sub-*

**378.**  
Notice of motion, for like attendance or committal.

*pena* to attend and be examined as a witness for the plaintiff [Or, said defendant], before C. D., Esquire, an examiner of this Court [Or, before C. D., the examiner specially appointed for the examination of witnesses in this cause], but has neglected or refused to attend and be examined: may be ordered to attend and be sworn and examined as such witness, at such time and place as the said examiner shall appoint; and that the said E. F. may be ordered to pay the costs of this application.

## 379.

Notice of motion, that a witness refusing to produce documents on a *subpena*, may be ordered to produce same.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [Or, defendant A. B.], that E. F., of (*residence and addition*), in obedience to the *subpena* served upon him in this cause, may be ordered to attend C. D., Esquire, one of the *Justices* of this Court [Or, C. D., the examiner specially appointed for the examination of witnesses in this cause], at his own expense, at such time and place as the said examiner shall appoint, and then and there produce the several documents in the said *subpena* specified [or as may be]; and that the said E. F. may be ordered to pay the costs occasioned by his refusal to produce the said documents, and of this application.

## 386.

Formal parts of deposition of a deponent cross-examined on his affidavit, before an examiner.

In Chancery.

Between (*Set out the title of the cause.*)

Deposition of a witness cross-examined in the above cause.

Before me,

B. A., examiner [Or, special examiner appointed by order in this cause, dated the — of —, 18 —].

Sworn the — day } E. F., cross-examined on behalf of the  
of —, 18 —. } plaintiff [Or, defendant A. B.], on his  
affidavit filed the — day of —,  
18 —, in this cause, saith as follows:

I was lately, &c.

Re-examined on behalf of the defendant A. B. [Or, plaintiff:—

I think it was, &c.

Cross-examined on behalf of the plaintiff [Or, defendant A. B.], upon new matter in the re-examination:—

Having now seen, &c.

Re-examined on behalf of the defendant A. B. [Or, plaintiff]:—

My impression is, &c.

E. F.

I hereby certify that the evidence contained in this and the ——— preceding sheets of paper was taken by me, and was afterwards read over to the witness [Or, respective witnesses], and signed by him [Or, them], in the presence of the parties attending

B. A.

In Chancery.

Between (*Set out the title of the cause.*)

Depositions of witnesses examined in the above cause, at the times and places hereinafter mentioned,

before me,

B. A., examiner [Or, special examiner appointed by order in this cause, dated the — of —, 18 —].

I. At the Red Lion Inn, Wells, in the county of Somerset.

Sworn the — day } E. F. (&c.: as in last Form).  
of —, 18 —.

II. At the Crown Hotel, Bath, in the county of Somerset.

Sworn the — day } G. H. (&c.: as in last Form).  
of —, 18 —.

I hereby certify (&amp;c.: as in last Form).

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [Or, defendant A. B.], that he may be at liberty to sue out a commission to examine witnesses [Or, C. D., and E. F., as witnesses] in this cause, at abroad. (*State where.*)

381.

The like, where the examination is at different places.

In Chancery.

CANADA.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, defender of the faith.

To

Know ye, that we having full faith in your prudence and competency, have appointed you Commissioners, and by these presents do authorize you to examine — as witness in a cause pending in our said Court of Chancery, wherein — plaintiff and — defendant — on oath, to be by you administered —, and to take, and certify in writing, the depositions of the said witnesses, and return the same, together with this Writ, without delay, to our said Court, there to be filed of record, according to the directions hereto annexed.

382.

Notice of motion, for a commission to examine witnesses

383.

Commission to examine witnesses abroad.

Witness, the Honorable ———, our Chancellor, this ——— day of ———, in the ——— year of our reign.

—————, Registrar.

The execution of this Commission appears in certain Schedules hereunto annexed.

} Commissioners.

#### INSTRUCTIONS TO COMMISSIONERS :

I.—The Commission shall not be opened until the time of attendance, as next hereinafter provided for.

II.—The Commissioner to whom the commission is delivered, shall cause a written notice to be given to the other commissioners named, of a day, hour and place, for its execution, the service of which notice must be not less than eight days prior to such time.

III.—No oath shall be taken by the commissioners.

IV.—On the day, and at the hour and place appointed, those who attend shall proceed to execute the commission; and in case any of the commissioners do not attend, a minute must be made at the head of the depositions, to the following effect:—"We certify, that on this ——— day of ———, at the house of T. W., situate at ———, being the day and place appointed for executing the commission to us with others directed, we attended to execute the same, and that [*Here insert the names of non-attending commissioners*] named in such commission, neglected to attend, due notice of the said time and place having been given them, as appears by the affidavit of E. F. hereto annexed." If such commissioners are ill, the fact must be certified under the hands of the attending commissioners, and annexed to the commission when returned.

V.—Two Commissioners may act, if the rest do not attend—one of whom must, in all cases, be of the legal profession. Where parties join in commission, a notice to the following effect must be subscribed by at least two of the commissioners, and served on such parties, eight days previous to the day appointed for executing the commission:—

"We, whose names are hereunto subscribed, having received a commission, issuing out of and under the seal of the Court of Chancery of the Province of Upper Canada, to us and others directed, for the examination of witnesses in a certain cause there depending, between A. B. complainant, and C. D. defendant—this is to give you notice, that we will execute the said commission, ("on the part of the said complainant, or on the part of the said defendant," as the case may be; or in case of a joint commission, "as well on the part of the said complainant as on the part of of the said defendant") at the house of T. W., situate at

"—, on the — day of —, at the hour of — o'clock  
 "in the forenoon of the same day, when and where you and  
 "your commissioners may be present, if you please. Dated  
 "this — day of —, 18 —.

} "Commissioners."

VI.—If the witnesses will voluntarily attend the commissioners, the following summons will be sufficient to authorise the production of them before the commissioners; but otherwise, if they are unwilling to give their evidence—in which case, they must be compelled, by subpoena, to testify in addition to the summons. Such subpoena is to be obtained by the party requiring the evidence of such unwilling witnesses, from the Registrar of the Court. The summons to be signed and issued by the acting commissioners, shall be to the following effect:—

"In Chancery.

"UPPER CANADA."

"Between A. B. complainant, and C. D. Defendant.—  
 "Whereas we have received a commission, issuing out of  
 "and under the seal of the said Court of Chancery of the  
 "Province of Upper Canada, to us and others therein named  
 "directed, for the examination of witnesses in a cause depending in the said Court, and now at issue, between the  
 "above named parties: And whereas we are informed, that  
 "you whose names are hereunder written, are material witnesses on behalf of the said plaintiff, or defendant, (as the  
 "case may be; or in case of a joint commission of the said  
 "plaintiff and defendant:) We therefore, by virtue of the  
 "said commission, do hereby will, and require you and each  
 "of you, severally and personally, to be and appear before  
 "us the said commissioners, or any two or more of us, at  
 "the house of T. W., situate at —, on the — day of —,  
 "18 —, at the hour of — in the forenoon of the same day,  
 "then and there to be examined as witnesses, and to testify  
 "the truth according to the best of your knowledge, for and  
 "on behalf of the said (plaintiff or defendant, &c., as the  
 "case may be, as before mentioned); and you are then and  
 "there to attend, and not depart until you have been examined on the part of the said (plaintiff or defendant, &c., as  
 "the case may be, as before directed) unless you have our  
 "permission so to do: and herein you are not to fail.

"Dated this — day of —, 18 —.

} "Commissioners.

"To E. F. and G. H."

The oath to be administered to witnesses is as follows—the witness laying his hand upon and kissing the gospels:

1. "You do solemnly swear, that the answers given by you to the interrogatories, (if any be filed; or if the exam-

ination be oral, the words will be "to the several questions which shall be put to you") "shall be the truth, the whole truth, and nothing but the truth—So help you God."

Or, if the witness desire it—

2. "You do swear, in the presence of the ever living God, that the answers, &c."—While taking this oath, the witness may or may not hold up his hand, in his discretion.

3. "If the witness be a Quaker, Menonist, Tunker, or person being a member of the Church or Congregation known by the name of Unitas Fratrum, or the United Brethren, sometimes otherwise called the Moravian Church, and shall declare that he has conscientious scruples against taking any oath, or swearing in any form, it will be as follows: "You solemnly, sincerely and truly, declare and affirm, that you are of the society called "Quakers, Menonists, Tunkers, or Unitas Fratrum or Moravians, (as the case may be) and that the answers, &c."

4. If the witness have any peculiar mode of swearing, connected with or in addition to the laying his hand upon the Gospels and kissing the same, which in his opinion is more solemn and obligatory, such mode of swearing him may be adopted.

5. If a witness believe in any other than the Christian Religion, he shall be sworn according to the peculiar ceremonies of his Religion, if there be any such ceremonies, instead of the modes above prescribed. In such case, the acting commissioners must certify the manner in which the oath has been administered, the religion of the witness, and that the mode pursued is the usual and most solemn form in which oaths are most usually administered to witnesses professing such religion.

VII.—The Commissioners shall cause the examination of each witness to be reduced to writing, and to be subscribed by him, and certified by such of the commissioners as are present at the taking of the same.

VIII.—The heading or title of the depositions shall be in the following form:—

"Depositions of witnesses produced, sworn (or affirmed)  
"and examined, the — day of —, 18—, at the house  
"of T. W., situate at —, under and by virtue of a  
"commission issued out of the Court of Chancery of the  
"Province of Upper Canada, in a certain cause therein  
"depending, and at issue, between A. B. complainant,  
"and C. D. defendant.

"E. F. of, &c. (residence and profession to be stated) aged  
"— years, being duly and publicly sworn (or affirmed)  
"and examined, on the part of the (complainant or defend-  
"ant, as the case may be) doth depose and say as follows:  
"(Where interrogatories are filed, proceed thus):—

"First—To the first interrogatory, I say, &c.

"Second—To the second interrogatory, I say, &c. (and so on through all the interrogatories to which the witness may be called upon to depose; and when cross-interrogatories are filed, proceed thus):—"To the first cross-interrogatory, I say, &c."

When the examination is oral, after setting out the heading of the depositions, and the name, residence, profession and age of the witness, the swearing, and on whose part he is examined as above—proceed to set forth the examination, and at the beginning of every question, put the letter Q, and of every answer, the letter A. When the deposition is finished, it must be subscribed by the witness, and certified by the acting commissioners, as follows:—

"Examination taken, reduced to writing, and }  
 "sworn to (or affirmed to) this — day of }  
 " —, 18 —, before }  
 } "Commissioners."

In the case of an illiterate witness, who cannot write, he must affix his mark, and the certificate of the acting commissioners will be as follows:—

"Examination, &c. (as before) the contents hav- }  
 "ing been first carefully read over to the wit- }  
 "ness, who appeared perfectly to understand }  
 "the same, and affix his mark thereto, before }  
 } "Commissioners."

When no interrogatories are filed, and the examination is oral, the questions and answers put and given upon cross-examination, shall be distinguished from those put and given in chief, thus—"Upon the said witness, E. F.'s cross-examination, the following questions and answers were put "and given, namely"—and so upon every subsequent re-examination and cross-examination of a witness.

IX.—If any exhibits are produced and proved before the commissioners, they shall be annexed to the depositions to which they relate, and shall in like manner be subscribed by the witness proving the same, and be certified by the acting commissioners, in the following manner:—

"At the execution of a commission for the exam- }  
 "ination of witnesses, between A. B. complain- }  
 "ant, and C. D. defendant, this paper-writing }  
 "was produced and shown to E. L. a witness, }  
 "and by him deposed to, before }  
 } "Commissioners."

X.—The acting commissioners shall subscribe their names to each sheet of the depositions taken by them.



XI.—If an Interpreter be employed, one of the acting commissioners shall administer to him the following oath :

"You do solemnly swear, that you will truly and faithfully interpret the oath and interrogatories to be administered to E. F., a witness now to be examined, out of the English language into the Spanish language (as the case may be), and that you will truly and faithfully interpret the answers of the said E. F. thereto, out of the Spanish language into the English language."

XII.—The acting commissioners shall sign the following Return, as above set forth :—

"The execution of this commission appears in certain Schedules hereunto annexed.

} "Commissioners."

And transmit the commission, &c., to the Registrar of the Court, in the manner next hereinafter provided for, within three days after the execution of the commission.

XIII.—The acting commissioners shall fold the depositions, commission and exhibits, with the interrogatories, if any be filed, in a packet, and bind it with tape. They shall set their seals at the several meetings or crossings of the tape, indorse there names on the outside, and direct it thus—"Commission to be returned to ———, Esquire, Deputy Registrar of the Court of Chancery, Hamilton, Canada West." They shall then, within the time limited by the last instruction, deposit the packet so directed in the nearest post office, and endorse thereupon "deposited in the post office, at ——— this ——— day of ———, 18 —, by me ———, commissioner." The postage must be paid by the party having the carriage of the commission, or in the case of a joint commission, by all parties equally.

XIV.—The acting commissioners may employ a clerk to copy the depositions, if they think proper. If a copy of the original draft be made, the witnesses must sign such copy. One of the acting commissioners, however, (such commissioner must be of the legal profession) shall in all cases take down the testimony, and the original draft, or the copy thereof which shall be transmitted to the Registrar of the Court, shall be written in a plain and legible manner.

XV.—By the terms of the commission, it must be executed by the commissioner without delay; and if any of the instructions hereinbefore given are neglected in the execution of the same, the depositions taken under it will be liable to be suppressed by the Court, for irregularity.

XVI.—The reasonable expenses of the acting commissioners, and their clerk (if one be employed), attending the execution of the commission, shall be borne by the party having the carriage of it; and in the case of a joint commis-

slon, by all the parties equally—the expenses of witnesses, by the parties producing them—and the expense attending their cross-examination, by the party detaining them.

By order of the Court.

—, Registrar.

#### In Chancery.

Interrogatories to be exhibited to witnesses to be produced, sworn, and examined in a certain cause now depending and at issue in the Court of Chancery for Upper Canada, wherein A. B. is plaintiff, and C. D. and E. F. are defendants, on the part and behalf of the above named plaintiff [*Or, defendant—or as may be*].

354.  
Interrogatories for the examination of witnesses, under the former practice.

1st. INTERROGATORY:—Do you know the parties, plaintiff and defendants in the title of these interrogatories, named, or any, or either and which of them, and how long have you known them respectively, or such of them as you do know?

(*Then followed distinct interrogatories, according to the subject matter, or the witnesses to be examined; but each interrogatory concluded thus:—Declare the truth of the several matters in this interrogatory inquired after, according to the best of your knowledge, remembrance and belief.*)

LAST INTERROGATORY:—Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or to the matters in question in this cause? If yea, set forth the same, and all the circumstances and particulars thereof, fully and at large, according to the best of your knowledge, remembrance and belief, as if you had been thereto particularly interrogated, together with your reasons at large.

#### SECTION IX.—EXAMINATION OF WITNESSES DE BENE ESSE.

*Formal parts: see ante, No. 53.*

on behalf of the plaintiff [*Or, defendant A. B.*], for leave to examine C. D. of (*residence and addition*), as a witness on his behalf in this cause, *de bene esse*: saving all just exceptions: the said C. D. being upwards of seventy years old [*Or, dangerously ill—Or, about to go abroad—If a special examiner is necessary, add: and that E. F., of (residence and addition), may be appointed an examiner, to take such examination. And take notice (as in No. 53).*]

355.  
Notice of motion, for leave to examine a witness *de bene esse*.

An affidavit in support accompanies.

**356.**  
Affidavit in  
support of mo-  
tion or petition.

In Chancery.

(Title of the cause.)

I, G. H., of (*Place of business*), gentleman, the solicitor in this cause for the plaintiff [*Or*, defendant A. B.], make oath and say as follows:

1. C. D., of (*residence and addition*), is a material witness in this cause for the plaintiff [*Or*, defendant A. B.].

2. The said C. D. is (*Show the special ground for the application; as thus: upwards of seventy years of age—Or, in a dangerous state of health—Or, about to go out of the jurisdiction of this Honorable Court—or as may be*).

3. If a special examiner is necessary, show his fitness to be appointed: see ante, No. 373.

4. Show means of knowledge.

**357.**  
Notice of inten-  
tion to examine  
the witness.

Formal parts: see ante, No. 53.

Take notice, that the plaintiff [*Or*, defendant A. B.], intends to examine C. D., of (*Insert description of the witness*), *de bene esse*, under the order in this cause dated the \_\_\_\_\_ day of \_\_\_\_\_, 18 —, before E. F., Esquire (*Continue as in No. 365, ante, to the end*).

**358.**  
Formal parts of  
deposition of  
the witness.

In Chancery.

Between (*Set out the title of the cause.*)

Deposition of a witness examined *de bene esse* pursuant to an order made in the above cause, dated the \_\_\_\_\_ day of \_\_\_\_\_, 18 —,

before me,

E. F., examiner [*Or*, special examiner appointed by the said order—*Or*, by order in this cause dated the \_\_\_\_\_, 18 —].

Sworn \_\_\_\_\_ day of \_\_\_\_\_, 18 —. } C. D., of (*residence and addition*), examined on behalf of the plaintiff [*Or*, defendant A. B.], saith as follows.

**359.**  
Notice of mo-  
tion, for leave  
to use deposi-  
taken *de bene*  
*esse*.

Formal parts: see ante, No. 53.

on the part of the plaintiff [*Or*, defendant A. B.], that he may be at liberty to read at the hearing of this cause the deposition of C. D., taken *de bene esse* on behalf of the said plaintiff [*Or*, defendant], filed on the \_\_\_\_\_ day of \_\_\_\_\_, 18 —, and taken under the order in this cause dated the \_\_\_\_\_ day of \_\_\_\_\_, 18 —.

**360.**  
Affidavit in  
support.

Formal parts: see ante, No. 12.

1. Issue was joined in this cause on the \_\_\_\_\_ last; and

the time for taking evidence therein expired on the ——— last.

2. *Showing special grounds for the application; as thus: C. D., in the order in this cause dated the ——— of ———, 18 —, named, died on the ——— day of ——— last. He is the same person as C. D., named in the paper writing marked A. now produced and shown to me (Exhibit certificate of death or burial), and purporting to be a copy of an entry in the Register book of deaths [Or, burials] kept for (Describe the Register book).*

3. *Show that due diligence was used to examine the witness in chief, in the ordinary course; and why it did not take place.*

4. *Show means of knowledge.*

#### SECTION X.—DEMURRERS BY WITNESSES.

In Chancery.

*(Set out the title of the cause.)*

Demurrer or objection of a witness examined in the above cause,

before me,

C. D., examiner [Or, special examiner appointed by order in this cause dated the ———, 18 —].

Sworn ——— day of } A. B., of (*residence and addition*), called  
——, 18 —. } on behalf of the plaintiff [*or as may be*].

Question:— } (*Set forth the question or questions put, the de-*  
Answer:— } *murrer or objection of the witness thereto, and the*  
*examiner's opinion thereon.*

A. B.

I refer this matter to the Court.

C. D.

The evidence contained in this sheet of paper was taken by me, and was afterwards read over to the witness, and signed by him, in the presence of the parties attending.

C. D.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [Or, defendant], that A. B., a witness sworn and examined in this cause on behalf of the plaintiff [*or as may be*] on the ——— day of ———, 18 —, examiner.

391.  
Demurrer or  
objection, by a  
witness.

392.  
Notice of mo-  
tion, that an  
objecting wit-  
ness may again  
attend the  
examination.

before C. D., Esquire, one of the examiners of this Honorable Court [*Or, the examiner specially appointed to take the examination of witnesses in this cause*], may be ordered to attend at his own expense before the said examiner, at such time and place as the said examiner shall appoint, to be further examined as a witness for the plaintiff [*or as may be*] in this cause; and that the said A. B. may be ordered then and there to answer the question which he demurred to, or objected to answer, upon his aforesaid examination on the — of —, 18 —, that is to say: (*State, or set out, the question*); and that the said A. B. may be ordered to pay the costs of and occasioned by his said demurrer or objection, and of this application.

## CHAPTER XVI.

## SETTING DOWN THE CAUSE FOR HEARING.

—:O:—

In Chancery.

**393.**

Consent to  
cause being set  
down, before  
the time for  
taking evidence  
has expired.

(*Short title.*)

We consent to this cause being set down forthwith for hearing, notwithstanding the time for taking evidence therein has not expired. Dated this — day of —, 18 —.

A. B., plaintiff's solicitor.  
C. D., solicitor for defendant E. F.  
G. H., agent for all the other defendants.

## CHAPTER XVII.

## HEARING CAUSES.

—:O:—

In Chancery.

**394.**

Consent to  
cause being  
prematurely  
heard.

(*Short title.*)

We consent to this cause being placed in the paper of causes for hearing on the — day of —, 18 —. Dated this — day of —, 18 —.

A. B., solicitor for the plaintiff.  
C. D., solicitor for the defendant E. F.  
G. H., solicitor for all the other defendants.

In Chancery.

(Short title.)

We request and consent that this cause, which is set down to be heard, be not placed in the paper of causes for hearing until the — day of —, 18 —; and that it be marked in the Registrars' book of causes as standing over to that day. Dated (&c. : Conclude as in last Form).

To the Registrar of the Court of Chancery.

395.  
Request that  
hearing of cause  
may stand  
adjourned.

The brief for the plaintiff will consist of a copy of the bill, of each answer, and of all the evidence. The brief for each defendant will consist of a copy of the bill, of his own answer only, and of all the evidence. The brief, in either case, should include copies of exhibits, when material, and of any admissions. Each brief should be accompanied by such observations as may be deemed advisable, and by such copies of, or extracts from, other documents as may be necessary. The printed documents are delivered in a separate form; and the brief, according to the present practice, usually consists of an introductory list or index of such documents as accompany it, and of the observations: according to the following sketch.

396.  
Briefs on the  
hearing.  
(1) Contents.

In Chancery.

(Full title of the cause.)

Brief for the plaintiff [Or, defendant A. B.].

#### I. INDEX TO PAPERS.

A printed copy of each of the following documents accompanies this brief:—

1. The plaintiff's amended bill, filed —, 18 —.
2. The answer of the defendant A. B., filed —, 18 —, to the original bill.
3. His further answer, filed —, 18 —, thereto.
4. His answer, filed —, 18 —, to the amended bill.
5. The answer of the defendant C. D., filed —, 18 —, to the amended bill.
6. Admissions between the parties.
7. Depositions and affidavits filed on the part of the plaintiff, viz.:
  - (a) Deposition of E. F., filed —, 18 —.
  - (b) Affidavit of G. H., filed —, 18 —.
  - (c) His cross-examination thereon, filed —, 18 —.
  - (d) Joint affidavit of L.M. and N.O., filed —, 18 —.
8. Depositions and affidavits filed on the part of the defendant A. B.
  - (e) Deposition (&c., as above).
9. Affidavit filed on the part of the defendant C. D.

(f) Affidavit of the said defendant C. D., filed —, 18 —.

## II. OBSERVATIONS.

(g) Indorsement *(Fold the brief longways, and indorse it thus:)*  
In Chancery.

Styles	}	Brief
v. Brown.		on the hearing.
		For the plaintiff
		[Or, defendant A. B.].
Mr. C.		

§

Consultation \_\_\_\_\_ "

with you,

Mr. D. \_\_\_\_\_ §

Consultation fixed for — the —, 18 —, at — o'clock, at —.

*(Add name, &c., of solicitor or party instructing: see ante, No. 5, or 9.)*

## CHAPTER XVIII.

## DECREES AND ORDERS.

—:O:—

## SECTION I.—GENERAL NATURE OF DECREES AND ORDERS.

**397.**  
Notice of motion, for preliminary accounts and inquiries.

*Formal parts: see ante, No. 53.*  
on the part of the plaintiff, that the following accounts and inquiries may be directed to be taken and made in this cause; that is to say:—

1.	}	<i>(Set them out in numbered paragraphs.)</i>
2.		

## SECTION II.—FORM OF DECREES AND ORDERS.

The Court doth order that the following accounts and enquiries be taken and made by the Master of this Court, that is to say:

308.  
Order directing accounts and enquiries referred to in Order 187, being Schedule J mentioned in that order.

1st. An account of the personal estate not specifically bequeathed of A. B. deceased, the testator in the pleadings mentioned, come to the hands of, &c.

2nd. An account of the said testator's debts.

3rd. An account of the said testator's funeral expenses.

4th. An account of the said testator's legacies.

5th. An enquiry, what parts, if any, of the said testator's personal estate are outstanding or undisposed of.

And it is ordered that the said testator's personal estate, not specifically bequeathed, be applied in payment of his debts and funeral expenses, in a due course of administration, and then in payment of his legacies.

*(If ordered.)*

And it is ordered that the following further accounts and enquiries be taken and made, that is to say:

6th. An enquiry what real estate the said testator was seised of or entitled to at the time of his death.

7th. An enquiry what incumbrances affect the said testator's real estate.

8th. An account of the rents and profits of the said testator's real estate received by, &c.

*(If sale ordered.)*

9th. An account of what is due to such of the incumbrancers as shall consent to the sale hereinafter directed in respect of their incumbrances.

10th. An enquiry what are the priorities of such last mentioned incumbrances.

And it is ordered that the testator's real estate be sold, with the approbation of ———.

And it is ordered that the further directions and costs be reserved, until after the said Master shall have made his report.

In Chancery.

*(Short title.)*

Proposed minutes of decree [Or, order].

309.  
Proposed minutes of a decree or order



CUR.—Declare as follows :

1. That, &c.
- Order as follows :
2. That, &c.

(Set out the proposed declarations and directions: see the last Form.)

Approved :

A. B., for the plaintiff, &c.

### SECTION III.—DRAWING UP, PASSING, AND ENTERING DECREES AND ORDERS.

**400.**  
Registrar's appointment to settle draft of, or to pass, a decree or order.

A. v: B.

[Or, In the matter of A.]

I have appointed —, the — day of —, 18 —, at — o'clock in the forenoon, to settle the draft of [Or, to pass] the decree [Or, order] pronounced in this cause [Or, matter] on the — day of —.

C. D., Registrar.

**401.**  
Notice of motion to vary minutes.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [Or, defendant A. B.], that the minutes of the decree [Or, order] pronounced in this cause [as may be], on the — day of —, 18 —, as given out by the Registrar, may be varied or altered in the respects following, namely: (*Specify the particular matter to be added, or altered*). And take notice (*as in No. 53*).

**402.**  
Notice of motion, to return engrossment of decree or order.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that Mr. A. B., the solicitor in this cause for the defendant C. D. [*or as may be*], may be ordered, within — days, to produce to, and leave with, E. F., Esquire, the Registrar of this Honorable Court, the engrossment prepared in the office of the said Registrar of the decree [Or, order] pronounced in this cause [*as may be*], on the — day of —, 18 —: to the intent that the same may be duly passed and entered; and that the said A. B. may be ordered to pay the costs of this application. And take notice (*as in No. 53*).

**403.**  
Notice of motion, to enter decree or order *nunc pro tunc*.

*Formal parts: see ante, No. 53.*

on behalf of the plaintiff [*or as may be*], that the decree [Or, order] made in this cause [Or, matter—*as may be*], dated the —, 18 —, and which has been passed by the Registrar,

but not yet entered, may be entered *nunc pro tunc*. And take notice (*as in* No. 53).

*Title—and address : see ante, No. 54.*

The humble petition of the plaintiff [*or as may be*].

404.  
Petition of  
course, for the  
like.

Showeth as follows :

1. A decree [*Or, order*] pronounced in this cause [*Or, matter*], on the — day of —, 18 —, has been passed by the Registrar.

2. By inadvertence [*or other ground*], the said decree [*Or, order*] has not yet been entered in the Registrar's book; and the time limited for entering the same has expired.

Your petitioner therefore humbly prays, that the said decree [*Or, order*] may be entered *nunc pro tunc*.

And your petitioner will ever pray, &c.

Take notice, that unless you within — days after the service hereof upon you, show unto the Court of Chancery for Upper Canada, good cause why the within decree [*Or, order*] should not be binding upon you, you will be bound by the said decree [*Or, order*], and the same will stand and be absolute against you.

404a.  
Notice to bind  
infant after  
coming to age,  
under Order 536,  
being Schedule  
W referred to in  
that order.

Dated, &c., —.

G. R.,

Solicitor for the plaintiff.

*Title—and address : see ante, No. 54.*

The humble petition of the defendant A. B.

Showeth as follows :

1. The plaintiff some time since filed his bill in this cause against your petitioner, and thereby stated, as the fact was, that your petitioner was then out of the jurisdiction of this Honorable Court.

2. Your petitioner has never answered the said bill.

3. A decree dated the — day of —, 18 —, has been made on the hearing of this cause, and thereby certain accounts and enquiries have been directed to be taken and made; but the Master has not yet made his report of the result thereof [*or as may be*].

4. Your petitioner is now resident within the jurisdiction of this Honorable Court; and is desirous to attend the proceedings under the said decree.

405.  
Petition of  
course by de-  
fendant, for  
leave to come  
in after decree;  
plaintiff con-  
senting.

5. Your petitioner submits to be bound by the said decree, and the several proceedings already had in this cause.

Your petitioner therefore humbly prays, that he may be at liberty to appear to the plaintiff's bill; and that he may have the like benefit of the said decree, and be at liberty to attend all subsequent proceedings in this cause, as if he had appeared at the hearing thereof.

And your petitioner will ever pray, &c.

406.  
Notice of motion, for leave to come in after decree.

*Formal parts: see ante, No. 53.*  
on the part of the defendant A. B., that: upon the said defendant submitting to be bound by the decree dated the — day of —, 18 —, and the several proceedings already had in this cause: he may be at liberty (*Continue as in prayer of last Form to the end*).

#### SECTION IV.—ENROLMENT OF DECREES AND ORDERS.

407.  
Notice of motion, for absconder to enrol, by consent.

*Formal parts: see ante, No. 53.*  
on behalf of all parties [*Or, of the plaintiff—Or, defendant—or as may be*], that, by consent, the decree [*Or, order*], dated the —, 18 —, made [*or as may be*], may be signed and enrolled. And take notice (*as in No. 53*).

408.  
Caveat against the enrolment of a decree or order.

In Chancery.

(*Short title.*)

Enter a *caveat* against enrolling the decree [*Or, order*] made by his lordship the —, dated the — day of —, 18 —.

Dated this — day of —, 18 —.

(*Name, &c., of solicitor or party applying:*

#### SECTION V.—RECTIFYING DECREES AND ORDERS.

409.  
Notice of motion, to rectify a decree or order.

*Formal parts: see ante, No. 53.*  
on the part of the plaintiff [*or as may be*], that the decree [*Or, order*] made in this cause, dated the — day of —,

18 —, may be rectified or corrected in the respect following; namely: (*State what*).

*Title—and address: see ante, No. 54.*

The humble petition of the plaintiff [*or as may be*].

410.  
Special petition  
for the like.

Showeth as follows:

1. By the decree [*Or, by an order*] made in this cause, dated the — day of —, 18 —, it was decreed (*&c.: Set out so much of the decree or order as is material to the subject matter of the petition*).

2. The said decree [*Or, order*] has been duly entered in the Registrar's book.

3. Since such entry was made, your petitioner has discovered that the said decree [*Or, order*] omits to (*State omission required to be rectified*).

Your petitioner therefore humbly prays, that the said decree [*Or, order*] may be rectified or corrected by (*State in what respect*).

*Title—and address: see ante, No. 54.*

The humble petition of A. B., of (*residence and addition*).

411.  
Petition for  
stop order on  
fund in Court,  
in aid of a  
charging order  
at law.

Showeth as follows:

*Show debtor's interest in fund in Court; as thus:* 1. W. O., the testator in the pleadings in this cause named, bequeathed to trustees the sum of £10,000, reduced annuities, on trust for his daughter G. D., widow, for her life, and at her decease for her children, in equal shares.

2. The said £10,000 reduced annuities is now standing in the name of the Accountant General in trust in this cause, "The account of G. D., and her children;" and by an order made therein dated the — day of —, 18 —, the interest to accrue, during the life of the said G. D., on the said fund, is directed to be paid to her.

3. The above named defendant C. D., as one of the three children of the said G. D., is entitled in reversion, expectant on the death of the said G. D., to one third share of the said reduced annuities.

*Recite the charging order obtained at law; as thus:* 4. By an order dated the — day of —, 18 —, made by the Honorable Mr. Justice E., in an action then pending in Her Majesty's Court of Queen's Bench at Toronto, wherein your petitioner was plaintiff, and the said defendant C. D. was defendant, it was ordered that the one third share of the defendant C. D., of the said £10,000, reduced annuities, expectant as aforesaid, should stand charged with the payment

to your petitioner of the sum of £500 debt, and £60 costs, together with interest on both sums, at the rate of £4 per cent. per annum, from — day of —, 18 —.

5. The said sums of £500 and £60, and all interest accrued due in respect thereof, remain due to your petitioner from the defendant C. D.

Your petitioner therefore humbly prays, that no part of the one third share of the defendant C. D. of the said £10,000, reduced annuities, may henceforth be sold, transferred, or otherwise dealt with, and no part of any interest to accrue in respect of such share, after the death of the said G. D., may be paid out, or otherwise dealt with, without notice to your petitioner.

Or that your lordship (*Continue as in prayer of No. 55, ante, to the end; and add foot note*).

419.  
Notice of motion, for the like

*Formal parts: see ante, No. 53.*

on the part of A. B., of (*residence and addition*), that no part of the one third share of the defendant C. D., expectant on the death of his mother G. D., of the sum of £10,000, reduced annuities, standing in the name of the Accountant General, in trust in this cause, "The account of G. D., and her children," may henceforth (*Continue as in prayer of last Form, to notice; and add:*) to the applicant A. B.

## SECTION VII.—ENFORCING THE EXECUTION OF DECREES AND ORDERS.

### 1. *Service of the decree or order.*

413.  
Memorandum, to be indorsed on the copy of a decree or order, for service in ordinary cases under Order 293, being Schedule N referred to in that order.

If you, the within named A. B., neglect to obey this order by the time therein limited, you will be liable to be arrested by the sheriff, and you will also be liable to have your estate sequestered, for the purpose of compelling you to obey this order without further notice. If you wish to apply to the Court, to add to, vary, or set aside the said order, or to suspend the operation thereof, you must do so before the expiration of the time within limited.

414.  
The like, on a corporation aggregate.

If you, the within named (*Insert name of corporation*), neglect to obey this order by the time therein limited, you

will be liable to have your hands and tenements, goods and chattels, distrained upon, and to have your estate sequestered, for the purpose of compelling you to obey this order. (*Conclude as in No. 412.*)

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that the time limited by the decree [*Or, order*] dated the \_\_\_\_\_ day of \_\_\_\_\_, 18 —, for the defendant A. B. [*or as may be*] to (*Describe the act directed to be done by the decree or order; as thus: pay into the bank, with the privity of the Accountant General, to the credit of this cause, the sum of £1000*), pursuant to the decree [*Or, order*] dated the \_\_\_\_\_ day of \_\_\_\_\_, 18 —, may be enlarged to the \_\_\_\_\_ day of \_\_\_\_\_, 18 —, or \_\_\_\_\_ days after the service thereafter of the order to be made hereon [*or as may be*]. (*Conclude as in No. 53.*)

**415.**  
Notice of motion, to enlarge the time limited by a decree or order to obey same.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that the defendant A. B. [*or as may be*], may be ordered, on or before the \_\_\_\_\_ day of \_\_\_\_\_, 18 —, or within \_\_\_\_\_ days after the service thereafter, to (*Describe the act to be done: see description in last Form*), pursuant to the decree [*Or, order*] dated the \_\_\_\_\_ day of \_\_\_\_\_, 18 —. (*Conclude as in No. 53.*)

**416.**  
The like, to fix a time, where none limited, or limited time expired.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that service of the decree [*Or, order*] dated the \_\_\_\_\_ day of \_\_\_\_\_, 18 —, together with a copy of the order to be made hereon, upon (*Describe the proposed substitute; as thus: C. D., of (residence and addition—Or, C. D., and E. F., members of the firm of D. & F., of (Place of business and addition), or upon either of them*)—may be deemed good service on the defendant A. B. [*or as may be*].

**417.**  
Notice of motion, for substituted service of a decree or order.

*Formal parts: see ante, No. 12.*

1. Show what efforts have been made to effect personal service of the decree or order; and why it cannot be effected.

2. Show upon what person, or in what way, substituted service is proposed to be made; and the special grounds for selecting such person, &c.

3. Show means of knowledge.

**418.**  
Affidavit in support.

419.  
Affidavit of service of decree or order (and Taxing Master's or Master's certificate), and of default made.

*Formal parts: see ante, No. 12.*

1. On the — day of —, 18 —, I served, in manner hereinafter mentioned, (*Describe the person served; as thus: the defendant A. B.—Or, C. D., the person named in the order, dated the — day of —, 18 —, hereinafter mentioned*), with the decree [*Or, order*] made in this cause [*Or, matter*], dated the — day of —, 18 —, whereby it was (decree and) ordered that (*Recite the declaratory and directory parts; and, if more than one decree or order was served, add: and also with the decree [Or, order] made, &c., by, &c., dated, &c., whereby, &c. (as above)—If on a substitute, add: and also with the order made in this cause dated the — day of —, 18 —, whereby it was ordered that (Recite so much of the order for substituted service as directed such service).*—Where the amount to be paid has been ascertained by the Taxing Master's, or Master's certificate, subsequently to the order directing payment, add: and also with the certificate of G. H., Esquire, the Taxing Master of this Court [*Or, of R. M., Esquire, Master*], dated the —, day of —, 18 —, whereby the said Taxing Master [*Or, Master*] certified that (*Recite sufficient of the certificate to show the amount to be paid*).

2. I served as aforesaid the said decree—[*Or, order—and Taxing Master's—Or, Master's certificate—or as may be*] by delivering a true copy thereof [*Or, of each of them*] to, and leaving the same with, the said defendant A.B. [*or as may be*], at (*State where*), in the (county) of —; and I at the same time showed to him [*Or, her*] the said original decree [*Or, order—or as may be*], duly passed and entered [*Or, an office copy of the said decree (or as may be).*—*If so: and also an office copy of the said Taxing Master's [Or, Master's] certificate duly sealed, &c., and signed, &c. (as last above).*

3. The copy [*Or, each copy*] served as aforesaid of the said decree [*Or, order, &c.*] had indorsed thereon, at the time of the aforesaid service thereof, a memorandum in the words following, that is to say: (*Set out a copy of the memorandum*).

*Prove that the decree or order has not been obeyed.*

420.  
Endorsement on office copy decree, referred to in Orders 206, and 245, being Schedule L mentioned in these orders.

To A. B., (*the person upon whom service has been directed.*)

(*Set out the order.*)

If you wish to apply to discharge the foregoing order, or to add to, vary, or set aside, the decree, you must do so within fourteen days from the service hereof. (*Where the order fixes the time for the further proceedings, add: And if you fail to attend at the time and place appointed, either in person or by your solicitor, such order will be made and proceedings taken, in your absence, as may seem just and*

expedient; and you will be bound by the decree, and the further proceedings in the cause, in the same manner as if you had been originally made a party to the suit, without any further notice.

In Chancery.

A. B. v. C. D.

491.  
Order made by  
Judge in Cham-  
bers under Or-  
der 205, or by a  
Master under  
Order 244.

Whereas it appears in the prosecution of the decree made in this cause, bearing date the — day of —, that E. J. and G. H., not already parties to this suit, ought to be made parties, and ought to attend, or be enabled to attend, the proceedings in the Judge Chambers (Or, in the office of the Master at —), under the said decree.

It is hereby ordered that an office copy of the said decree, on which is to be endorsed a notice to the effect set forth in Schedule L in the Consolidated General Orders of the Court of June, 1868, be served together with a copy of this order on each of the said E. J. and G. H.; and upon such service they are to be treated and named as parties to this suit, and will be bound by the said decree in the same manner as if they had been originally made parties to this suit.

Dated, &c.

I. J., V. C.

(Or, K. S., Master at —  
—as the case may be).

In Chancery.

(Title.)

429.  
Notice to tenant  
to attorn to  
sequestrators.

We, A. B. and C. D., the sequestrators acting under the sequestration issued in this cause on the — day of —, 18 —, against (the defendant) E. F., hereby give you notice and require you to attorn and become tenant to us for (*Describe the property; as thus:* all that farm called The Bourne, situate at —, in the county of —), and for such other — or parts of the real estate of the said E. F. as is or are in your occupation; and to pay to us your rent in arrear and growing rent for the said premises. Dated this — day of —, 18 —.

A. B.  
C. D.

To G. H., of, (*residence and addition*).

In Chancery.

(Title.)

493.  
Attornment  
thereon.

I, G. H., of (*residence and addition*), attorn and become



tenant to A. B., and C. D., the sequestrators acting under the sequestration issued in this cause on the — day of —, 18 —, against (the defendant) E. F., for all that (*Describe the property; see description in last Form*), with the appurtenances, as the same are now in my occupation: to hold the same at and under the same rent, and subject to the same covenants and conditions, as I now hold the same. And I have this day paid to the said A. B. and C. D. the sum of (one shilling) for and on account, and in part payment of the said rent. Dated this — day of —, 18 —,

Witness:

G. H.

J. M., of (*residence and addition*).

422.  
Notice of motion, for tenant to attorn.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that G. H., of (*residence and addition*), may be ordered within (eight) days after service, to attorn and become tenant for the (*Describe the property: see ante, No. 422*), and pay his rent in arrear and growing rent for the same, to A. B. and C. D., the sequestrators acting under the sequestration issued in this cause on the — day of —, 18 —, against the defendant E. F. And take notice (*as in No. 53*).

423.  
Affidavit in support.

*Formal parts: see ante, No. 12.*

1. *Prove service of the notice to attorn: see ante, No. 45.*

*If the service was personal, prove production of the sequestration; as thus:* 2. At the time of the service aforesaid of the said notice, I shewed to the said (*tenant's name*), the commission of sequestration in the said notice mentioned or referred to, and which said commission appeared to me to have been regularly issued out of, and to be under the seal of, this Honorable Court.

*If the service was not personal, prove service of the sequestration; as thus:* 2. At the time of the service aforesaid of the said notice, I served the said (*tenant's name*) with the commission of sequestration therein mentioned or referred to, and which appeared to me to have been regularly issued out of, and to be under the seal of, this Honorable Court, by delivering to, and leaving with, the said (*State whom*), a true copy of the said commission, and of the indorsement thereon; and I at the same time shewed to the said (*State whom*), the said commission so under seal as aforesaid.

3. *Prove service of the notice of motion to attorn: see ante, No. 45.*

424.  
Notice of motion, for sequestrators to be sworn.

*Formal parts: see ante, No. 53.*

that A. B. and C. D., the sequestrators acting under the sequestration issued in this cause on the — day of —, 18 —, against the defendant E. F., may be ordered to leave their accounts in the chambers of the Master at — [*or as may be*], on or before the — day of —, 18 —, or within (eight) days after service, and at such other times as

the said Master shall appoint; and to pay the balances appearing due on their accounts, or such part thereof as the said Master shall certify as proper to be paid by them, into the bank, to the credit of this cause, within ten days (exclusive of vacations) after the said Master's certificate of the result of such accounts respectively shall become absolute, or at such other periods as he may be directed.

*Formal parts: see ante, No. 53.*

on the part of G. H., of (*residence and addition*), that an inquiry may be made whether the said G. H. has any and what interest in the real and personal estate [*or as may be*], sequestered by A. B. and C. D., the sequestrators acting under the sequestration issued in this cause on the — day of —, 18 —, against (the defendant) E. F., or in any or what part thereof. (*Conclude as in No. 53*).

497.  
Notice of motion, for an examination, pro interesse suo.

#### *Special Contempts.*

*Formal parts: see ante, No. 53.*

on the part of A. B., of (*residence and addition*), one of the solicitors of this Honorable Court [*or as may be*], that, on the ground of privilege, he may be discharged out of the custody of the Sheriff of — [*or as may be*], in respect of an attachment issued against him on the — day of —, 18 —, for breach of the order dated the — day of —, 18 —, and Taxing Master's certificate dated the — day of —, 18 —, in not paying to C. D. the sum of £ —, in the said Taxing Master's certificate mentioned [*or as may be*]: the said A. B. having been, at the time of his said arrest, on his way to attend a summons at, &c., as solicitor on behalf of, &c. [*or as may be*].

498.  
Notice of motion, by an officer, auditor, or witness to be discharged from custody, when protected from arrest.

And that the said C. D., and E. F., Esquire, the said Sheriff, and G. H., his officer, may be ordered to pay to the said A. B. his costs occasioned by the execution of the said attachment, and of this application and consequent thereon. And take notice (*as in No. 53*).

## CHAPTER XIX.

### TRIALS OF QUESTIONS OF FACT, AND ASSESSMENTS OF DAMAGES.

—:O:—

#### SECTION I.—IN WHAT CASES DIRECTED.

**429.**  
Notice of motion, that a question *devisevit vel non* may be tried before the Court,

*Formal parts : see ante, No. 53.*

on the part of the plaintiff [*Or*, defendant A. B.], that the following question may be tried by a jury before the Court itself [*Or*, before the Court itself, without a jury], that is to say:—

Whether the paper writing, dated the — day of —, 18 —, in the pleadings mentioned, purporting to be the last will and testament of C. D., of, &c., is or is not the last will and testament of the said C. D. [*or as may be*]. And take notice (*as in* No. 53).

**430.**  
Notice of motion, for leave to pay money into Court in respect of damages.

*Formal parts : see ante, No. 53.*

on the part of the defendant A. B., that he may be at liberty to pay into the bank, with the privy of the Accountant-General, to the credit of A. v. B. (186—, A. No.—), the sum of £—, in satisfaction [*or as may be*], of the damages in the order in this cause, dated the — day of —, 18 —, mentioned. And take notice (*as in* No. 53).

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#### SECTION II.—TRIALS AND ASSESSMENTS BEFORE THE COURT ITSELF, BY OR WITHOUT A JURY.

**431.**  
Order for the trial of questions of fact by a Jury, before the Court itself.

(*Date—Title—and Introduction.*)—His lordship doth order, that the following questions of fact be tried by a jury, before His Honor the Vice-Chancellor S.; namely:—

1. Was the plaintiff, J. Y., the true and first inventor of the invention for which the letters patent of the 17th day of October, 1850, in the bill in this cause mentioned, were granted to the said J. Y.?
2. Was the said invention new within the United Kingdom of Great Britain and Ireland, at the date of the said letters patent?

3. Did the specification, enrolled in pursuance of the said letters patent, particularly describe and ascertain the nature of the said invention, and in what manner the same was to be performed?

4. Have the defendants, or any or either of them, wrongfully, and in contravention of the said letters patent, used the said invention?

And it is ordered that such questions be tried by a special jury.

And it is ordered that the plaintiffs do, forthwith, deliver to the solicitors for the defendants, particulars in writing of the breaches on which they intend to rely on the trial of such questions; and that the defendants do, within five days of the delivery of the particulars of breaches, deliver to the solicitors for the plaintiffs particulars in writing of the objections on which the defendants intend to rely on the trial of the same questions.

And it is ordered that the parties be at liberty to read the depositions and examinations, made and taken in this cause, of such of the witnesses as, upon the trial of the said questions, shall be proved to be dead, or unable to attend to be examined: saving all just exceptions.

And it is ordered that the plaintiffs and defendants be, respectively, at liberty to sue out *subpœnas* to compel the attendance of such witnesses as they may require to give evidence on the said trial.

And any of the parties are to be at liberty to apply to His Honor the Vice-Chancellor S., as they shall be advised.

(*Date—Title—and Introduction.*)—This Court doth (by consent) order, that the said order of the 21st day of December, 1863, be varied, so far as regards the direction that the questions in the said order mentioned should be tried by his honor with a special jury; and, instead thereof, it is ordered that such questions be tried by his honor without a jury.

432.  
Further order, by consent, that the questions be tried before the Court itself, without a jury.

And it is ordered that this cause be set down, and be in the paper for hearing on the same day as the said questions shall be appointed to be tried, after the trial of the said questions.

In Chancery.

(*Title of cause or matter.*)

By an order made in this cause [*Or, matter*], dated the \_\_\_\_\_ day of \_\_\_\_\_, 18 —, the Court hath directed that the following question [*Or, questions*] of fact be tried by a

433.  
Record for trial, of a question or questions of fact.

jury before the Court itself [*Or*, before the Court itself without a jury], that is to say:—

Whether, &c.

434.  
Record for  
trial as to  
amount of  
damages.

In Chancery.

(*Title of cause or matter.*)

Whereas, by an order made in this cause [*Or*, matter], dated the — day of —, 18 —, the Court hath awarded damages to the plaintiff [*or as may be*], in respect of the matters in the said order mentioned, and hath directed that the amount of such damages shall be assessed by a jury before the Court itself [*Or*, before the Court itself without a jury.]

The question is, what amount of damages the plaintiff [*or as may be*] hath sustained by reason of the matters in the said order mentioned.

435.  
Certificate that  
the record has  
been filed.

*Formal parts:*

These are to certify, that the Record for Trial of questions of fact [*Or*, as to the amount of damages] by [*Or*, without] a jury, in this cause [*Or*, matter], was regularly filed on the — day of —, 18 —, as appears by my book.

436.  
Notice of motion,  
to fix a  
day for the  
hearing.

*Formal parts: see ante*, No. 53.

on the part of the plaintiff [*or as may be*], that a day may be fixed for the trial by a jury before the Court [*Or*, for the trial before the Court without a jury], directed by the order dated the —, 18 —. And take notice (*as in* No. 53).

### SECTION III.—NEW TRIALS.

437.  
Notice of motion,  
for a new  
trial.

*Formal parts: see ante*, No. 53.

on the part of the plaintiff [*Or*, defendant A. B., &c.], that the issue [*Or*, the question of fact—*Or*, the question as to the amount of damages], which has been tried pursuant to the order in this cause [*Or*, matter], dated the — day of —, 18 —, may be re-tried by a special [*Or*, common] jury before this Court [*Or*, before this Court without a jury—*or as may be*]. And take notice (*as in* No. 53).

## CHAPTER XX.

### PROCEEDINGS IN THE JUDGES' CHAMBERS.

—:O:—

#### SECTION I.—PROCEEDINGS ORIGINATING IN CHAMBERS.

##### 1. Administration of Estates on Motion.

In the matter of the Estate of E. F., late of the Township of Vaughan, in the County of York, deceased.

A. B. against C. D.

To C. D., Executor of E. F., deceased.

438.  
Notice of motion, for administration order, under Order 468, being Schedule U referred to in that order.

Take notice, that A. B., of the city of Toronto, in the county of York, Esquire (*or other proper description of the party*), who claims to be a creditor upon the estate of the above named E. F., will apply to the Court of Chancery, in Chambers, at Osgoode Hall, in the city of Toronto, on the — day of —, at the hour of —, for an order for the administration of the estate, real and personal, of the said E. F., by the Court of Chancery; and upon such application will be read the affidavits of (*State the materials upon which the application is founded*) this day filed.

If you do not attend either in person or by your solicitor at the time and place above mentioned, such order will be made in your absence as may seem just and expedient.

Dated, &c.

G. H.,

*Of the city of Toronto, solicitor for the above named A. B.*

*Formal parts: see ante, No. 12.*

1. *State the amount, and nature of the debt; and any existing security for its payment, or negative the existence of any such security.*

439.  
Affidavit in support of an administration order by a creditor.

2. *Prove that the defendants are the proper persons to be sued; as thus: The said John Thomas died on or about the — day of —, 18 —; and probate of his will has [Or, letters of administration of his personal estate have] been granted to the defendant William Jackson [or as may be].*

3. *Show means of knowledge.*

440.  
Affidavit in  
support of an  
administration  
order by a  
specific, pecu-  
niary, or  
residuary lega-  
tee.

*Formal parts : see ante, No. 12.*

1. *State, succinctly, the nature of the bequest ; as thus : The above named John Thomas, by his will dated the — day of —, 18 —, bequeathed to me all his household furniture and effects [Or, a legacy of £100, payable three months after his death—Or, one fifth of the residue of his personal estate and effects—Or, an annuity of £20, during my life].*

2. *Prove that the defendant is the proper person to be sued ; as thus : The said John Thomas died on or about the — day of —, 18 —, and probate of his will has been granted to the defendant William Jackson [or as may be].*

3. *Show that the bequest has not been satisfied ; as thus : The household furniture and effects bequeathed to me as aforesaid have not yet been delivered to me [Or, The legacy of £100 bequeathed to me as aforesaid remains due to me from the said testator's estate—Or, The share of residue bequeathed to me as aforesaid has not been accounted for, or paid to me—Or, I am now entitled to the said annuity of £20 bequeathed to me as aforesaid ; but no provision to secure the due payment thereof has been made—or as may be].*

4. *Show means of knowledge.*

441.  
The like, by a  
next kin.

*Formal parts : see ante, No. 12.*

*State the death of the person whose estate is to be administered, and show that the applicant is one of his next of kin ; as thus : 1. The above named John Thomas died on or about the — day of —, 18 —, a bachelor, and intestate ; and without leaving any father, mother, sister or brother him surviving.*

2. *The said John Thomas was the son of Charles Thomas late of, &c. The said Charles Thomas had two children only ; that is to say : (1) the said intestate John Thomas ; and (2) my father Francis Thomas.*

3. *The said Francis Thomas died on or about the — day of —, 18 —. The said Francis Thomas had three children only ; that is to say : (1) my brother the defendant Edward Thomas ; (2) my sister Mary, now the wife of William Hughes, of, &c. ; and (3) me the deponent.*

4. *As a child of the intestate's said brother Francis Thomas, I claim to be one of the next of kin of the said intestate John Thomas ; and, as such, to be entitled to a distributive share of his personal estate. Such share has not been paid, or accounted for to me.*

*Show that the defendant is the proper person to be sued ; as thus : 5. Letters of administration of the personal estate of the said John Thomas have been granted to the defendant Edward Thomas [or as may be].*



*Formal parts: see ante, No. 12.*

449.  
Affidavit in support of an administration order by a person interested in real estate.

*State, succinctly, the nature of the applicant's interest under the will, and the persons to be sued; as thus:* 1. The above named John Thomas, by his will dated the — day of —, 18 —, devised all his real estate to the defendant Edward Styles, upon trust to sell and convert the same into money, and invest such money as therein mentioned; and to pay the income to accrue from such investment unto the testator's wife, Louisa Thomas, for her life; and after her death, to raise the sum of £1000, out of the said trust estate, and pay the same to me, on my attainment of the age of twenty-one years; and the said testator appointed the defendant William Jackson executor of his will.

2. The said testator died on the — day of —, 18 —; and probate of his will was on the — day of —, 18 —, granted to the defendant William Jackson.

3. The defendant Edward Styles accepted the trust reposed in him by the said will; and he converted the testator's real estate into money, and made certain investments out of the proceeds thereof.

4. The testator's widow the said Louisa Thomas died on the — day of —, 18 —; and I attained my age of twenty-one years on the — day of —, 18 —.

5. I am now entitled to receive the said sum of £1000; but the defendant Edward Styles refuses or neglects to pay the same to me.

6. *Show means of knowledge.*

In Chancery.

Between—A. B.....Plaintiff.

and

C. D.....Defendant.

449a.  
Judges' appointment in Chambers referred to in Order 198, being Schedule K mentioned in that order.

The — day of — is hereby appointed to proceed (*Here state the nature of the business for which the appointment is made*) when all parties are to attend at Chambers in Osgoode Hall, in the city of Toronto, at the hour of —.

(*To be signed by Judge, or Judges' Secretary.*)

NOTE.—If you do not attend either in person or by your solicitor, at the time and place above mentioned, such order will be made and proceedings taken in your absence, as may seem just and expedient.

G. H., solicitor for —



443.  
Notice of motion, to restrain proceedings at law by a creditor, pending the taking of the account.

*Formal parts: see ante, No. 53.*

on the part of A. B., and C. D., the executors of the will [Or, administrators of the personal estate] of the above named (John Thomas), that, until the account of debts and liabilities affecting the personal estate of the said John Thomas, directed to be taken by the order made in this matter dated the — day of —, 18 —, has been taken thereunder, G. H., of (*residence and addition*): who has, or claims to have, a demand upon the estate of the said (John Thomas), by reason of a debt or liability due from such estate: may be restrained from proceeding with the action commenced by him in Her Majesty's Court of Queen's Bench at Toronto [or as may be], against the said A. B., and C. D., to enforce his said demand; and from commencing or prosecuting any other action against the said A. B., and C. D., for or in respect of the said demand. And take notice (*as in* No. 53).

444.  
Notice of motion, to restrain a creditor from proceeding at law, where the account has been taken and certified.

*Formal parts: see ante, No. 53.*

on the part of A. B., and C. D., the executors of the will [Or, the administrators of the personal estate] of the above named (John Thomas), that G. H., of (*residence and addition*) — If so: who, by the Master's report, dated the — day of —, 18 —, and made in this matter pursuant to the order therein dated the — day of —, 18 —, is certified to have a demand upon the estate of the said (John Thomas) to the amount of £ — [or as may be, as in report] — may be restrained, by the order and injunction of this Honorable Court, from proceeding with the action (*Continue as in* No. 443, *ante, to the end, and add:*) until the further order of this Court.

445.  
Notice of motion to deposit a fund to answer contingent liability.

*Formal parts: see ante, No. 53.*

on the part of A. B., and C. D., the executors of the will [Or, administrators of the personal estate] of the above named (John Thomas):

1. That they may be at liberty to pay into the bank, with the privity of the Registrar, to the credit of "Re John Thomas's Estate (1867, T. No. 50)" to an account to be entitled: "Fund to answer the testator's contingent liability E. F.," the sum of £ —; and that the same may be laid out in Dominion stock, and the interest thereon accumulated.

2. That the said fund may be deemed to be a fund set apart and appropriated out of the estate of the said (John Thomas) to answer the contingent liability to E. F., by the Master's report dated the — day of —, 18 —, allowed in respect of the covenant entered into by the said (John Thomas) with him, as therein mentioned [or as the facts may be].

3. That any person interested in the said fund may be at liberty to apply, as he may be advised. And take notice (as in No. 53).

Pursuant to a decree [*Or, an order*] of the Court of Chancery, made in [the matter of the estate of A. B. and in] a cause, S. against P. [*short title*], the creditors of A. B., late of —, in the county of —, who died in or about the month of —, 18 —, are, on or before the — day of —, 18 —, to send by post prepaid to E. F., of —, the solicitor of the defendant C. D., the executor [*Or, administrator*] of the deceased [*or as may be directed*], their Christian and sur-names, addresses and description, the full particulars of their claims, a statement of their accounts, and the nature of the securities (if any) held by them; or in default thereof, they will be peremptorily excluded from the benefit of the said decree [*Or, order*]. Every creditor holding any security is to produce the same before me, at my chambers, at, &c., on the — day of —, 18 —, at — o'clock in the — noon, being the time appointed for adjudication on the claims.

446.

Advertisement for creditors, under Order 475, being No. 1 of Schedule V referred to in that order.

Dated this — day of —, 18 —.

G. H., *Master*.

(*Short Title.*)

You are hereby required to produce, in support of the claim sent in by you, against the estate of A. B., deceased [*describe any document required*], before me at my chambers, at, &c., on the — day of —, 18 —, at — o'clock in the — noon.

447.

Notice to creditors to produce documents under Order 477 being No. 2 of Schedule V referred to in that order.

Dated this — day of —, 18 —.

G. R., of, &c., solicitor for the plaintiff  
[*Or, defendant, or as may be.*]

To Mr. S. T.

In Chancery.

(*Title.*)

We, C. D., of, &c., the above named plaintiff [*Or, defendant, or as may be*], the executors [*Or, administrators*], of A. B., late of —, in the county of —, deceased, and E. F., of, &c., solicitor, severally make oath, and say as follows:—

448.

Affidavit of executor or administrator as to claims, under Order 480, being No. 3 of Schedule V referred to in that order.

I, the said E. F., [solicitor] for myself, say as follows:

1. I have, in the paper writing now produced and shown to me, and marked A., set forth a list of all the claims, the particulars of which have been sent in to me by persons claiming to be creditors of the said A. B., deceased, pursuant to the advertisement issued in that behalf, dated the — day of —, 18 —.

And I, the said C. D., for myself, say as follows:

2. I have claimed the several claims mentioned in the paper writing now produced and shown to me, and marked A., and I have compared the same with the books, accounts, and documents of the said A. B. [*or as may be, and state any other inquiries or investigations made*], in order to ascertain, as far as I am able, to which of such claims the estate of the said A. B. is justly liable.

3. From such examination [*and state any other reason*], I am of opinion, and verily believe, that the estate of the said A. B. is justly liable to the amounts set forth in the sixth column of the first part of the said paper writing marked A.; and to the best of my knowledge and belief, such several amounts are justly due from the estate of the said A. B., and proper to be allowed to the respective claimants named in the said schedule.

4. I am of opinion that the estate of the said A. B., is not justly liable to the claims set forth in the second part of the said paper writing marked A., and that the same ought not to be allowed without proof by the respective claimants [*Or, I am not able to state whether the estate of the said A. B. is justly liable to the claims set forth in the second part of the said paper writing marked A., or whether such claims, or any parts thereof, are proper to be allowed without further evidence.*]

Sworn, &c.

(Short Title.)

449.  
List of claims  
referred to in  
affidavit, No.  
448, being exhibit  
referred to  
in No. 3 of  
Schedule V.

List of claims the particulars of which have been sent in to E. F., the solicitor of the plaintiff, [*Or, defendant, or as may be*], by persons claiming to be creditors of A. B., deceased, pursuant to the advertisement issued in that behalf, dated the — of —, 18 —.

This paper writing marked A., was produced and shown to —, and is the same as is referred to in his affidavit, sworn before me this — day of —, 18 —.

W. B., &c.

*First Part.*—Claims proper to be allowed without further Evidence.

Serial No.	Names of Claimants.	Addresses and Descriptions.	Nature of Claim.	Amount Claimed.	Amount proper to be Allowed.
				\$    "	\$    cts.

*Second Part.*—Claims which ought to be proved by the Claimants.

Serial No.	Names of Claimants.	Addresses and Descriptions.	Nature of Claims.	Amount Claimed.
				\$    cts.

(Short Title.)

The claim sent in by you against the estate of A. B., deceased, has been allowed at the sum of \$—, [with interest thereon at \$— per cent. per annum, from the — day of —, 18 —, and \$— for costs, or as the case may be.]

450.  
Notice to creditor that claim allowed under Order 488, being No. 4 of Schedule V referred to that order.

(Short Title.)

You are hereby required to prove the claim sent in by you against the estate of A. B., deceased. You are to file such affidavit as you may be advised in support of your claim, and give notice thereof to —, Master in Chancery [or as the case may be], on or before the — day of —, 18 —; and to attend personally or by your solicitor, at his chambers, on the — day of —, 18 —, at — o'clock in the — noon, being the time appointed for adjudicating on the claim.

451.  
Notice to creditor to prove his claim under Order 488, being No. 4 of Schedule V referred to in that order.

Dated this — day of —, 18 —.

G. R., of, &c., solicitor for the plaintiff;  
[Or, defendant, or as may be].

To Mr. S. T.

*If part only allowed, add—*If you claim to have a larger sum allowed, you are hereby required to prove such further claim, and you are to file [*&c., as in Form No. 5.*]

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 18—,

G. R., of, &c., solicitor for the plaintiff  
[or defendant, or as may be.]

To Mr. P. R.

*Notice that Cheques may be received, under Order 486.*

(Short Title.)

452.  
Notice to creditors that cheques may be received under Order 486, being No. 8 of Schedule V referred to in that order.

The cheques for the amounts directed to be paid to the creditors of A. B., deceased, by an order made in this [matter or cause, dated the \_\_\_\_\_ day of \_\_\_\_\_, 18—, may be received at the Registrar's Office, in Osgoode Hall, Toronto, on \_\_\_\_\_ after the \_\_\_\_\_ day of \_\_\_\_\_, 18—,

G. R., of, &c., solicitor for the plaintiff,  
[or, defendant, or as may be.]

To Mr. W. S.,  
&c.

In Chancery.

(Short style of Suit.)

453a.  
Master's warrant.

By Virtue of an Order or Decree of Reference, I do appoint the several days and times hereunder written for the several purposes also hereunder written, at my Chambers in the \_\_\_\_\_ of \_\_\_\_\_, at which time and place all parties concerned are to attend.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 18—.

A. B., Master.

*Particular Proceedings.—Inquiries.—Claims.*

In Chancery.

(Short style of suit.)

452b.  
Advertisement for claimants (other than creditors of a deceased person) to come in.

Pursuant to a decree [Or, an order] of the Court of Chancery, made in (*Set out the short title of the matter or clause, as thus: the matter of the trusts of an indenture dated the 4th January, 1860, between A. B. and C. D.—Or, in a cause Jones against Styles,—or may be bearing date the \_\_\_\_\_ day of*

—, the (*State the special object of the advertisement; as thus:* the persons claiming to be the heirs at law of A. B., late of (*residence and addition*), living at the time of the said A. B.'s death on the — day of —, 18—,

*Or*, the persons claiming to be next of kin, according to the statutes for the distribution of intestates' estates, of A. B., late of, &c., living at the time of his death on the — day of —, 18 —, or to be the legal personal representatives of such of the said next of kin as are now dead,

*Or*, the persons claiming to be interested under a certain indenture dated the — day of —, 18—, executed by A. B., then of, &c., for the benefit of his creditors,

*Or*, the persons claiming to be entitled to the legacy of £1000 bequeathed by the will of the testator Isaac Brown, late of —, in the county of —, gentleman to the child or children of his nephew William Saunders,

*Or*, the persons claiming to be entitled to any mortgage, charge, or other incumbrance upon or affecting the legacy of £1000 bequeathed to John Jones, now or late of (*residence and addition*), by the will of his father Ephraim Jones, late of (*residence and addition*), who died on or about the — day of —, 18 —,

are, by their solicitors, on or before the — day of —, 18 —, at 10 o'clock a.m., to come in and prove their claims, at the Chambers of the Master of the Court at — [*or as may be*]: *Or*, in default thereof, they will be peremptorily excluded from the benefit of the said decree [*Or, order*].

Dated this — day of —, 18 —.

A. B.,  
Master at —.

*Formal parts: see ante, No. 12.*

1. John Hughes, late of (*residence and addition*), the intestate in the decree [*Or, order*] in this cause [*Or, matter*] dated the — day of —, 18 —, named, was my son.

453.  
Affidavit in answer to an inquiry as to heirship and kindred.

2. The said John Hughes died on the — day of —, 18 —. He is the same person as "John Hughes," in the certificate, marked A., now produced and shown to me, named; and purporting to be a copy of an entry of his burial in the register book of burials kept for the parish of W., in the county of Y., for the year 18 —.

3. The said John Hughes was married twice only; namely: (1) On the — day of —, 18 —, to Laura Thornton, at the parish church of S., in the city of T.; and

(2) on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, to Jane Watts, at the parish church of P., in the county of H.

4. The said John Hughes and Laura Thornton are the same persons as "John Hughes," bachelor, and "Laura Thornton," spinster, respectively named in the certificate, marked B., now produced and shown to me; and purporting to be a copy of an entry of their marriage in the register book of marriages kept for the said parish of H., for the year 18\_\_\_\_.

5. The said Laura Thornton, then Laura the wife of the said John Hughes, died on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_. She is the same person as "Laura Hughes," in the paper writing marked C., now produced and shown to me, named; and purporting to be a copy, under the seal of the General Register Office, of the entry No. \_\_\_\_\_, in the certified entries of deaths in the district of K., in the county of L., for the year 18\_\_\_\_.

6. The said John Hughes and Jane Watts are the same persons as "John Hughes," widower, and "Jane Watts," widow, respectively named in the paper writing, marked D., now produced and shown to me; and purporting to be a copy of an entry of their marriage in the register book of marriages kept for the said parish of P., for the year 18\_\_\_\_.

7. The said John Hughes had two children only by his wife Laura Hughes, formerly the said Laura Thornton; namely: (1) Albert Hughes, and (2) Maria Hughes.

8. The said Albert Hughes is the same person as "Albert, son of John and Laura Hughes," in the paper writing, marked E., now produced and shown to me, named; and purporting to be a copy of an entry of his baptism in the register book of baptism kept for the parochial chapelry of L., in the county of M., for the year 18\_\_\_\_.

9. The said Maria Hughes is the same person as "Maria, daughter of John and Laura Hughes," in the paper writing, marked F., now produced and shown to me, named; and purporting to be a copy of an entry of her baptism in the last mentioned register book, for the year 18\_\_\_\_.

10. The said Maria Hughes has been married once only; namely: on the \_\_\_\_\_ day of \_\_\_\_\_, to Thomas Jones, of (residence and addition), at the parish church of N., in the city of O. They are the same persons as "Thomas Jones," bachelor, and "Maria Hughes," spinster, respectively named in the paper writing, marked G., now produced and shown to me; and purporting to be a copy of an entry of their marriage in the register book of marriages for the said parish of N., for the year 18\_\_\_\_.

11. The said John Hughes had no child by his wife Jane Hughes, formerly the said Jane Watts, and now his widow.

12. The said Jane Hughes, and Albert Hughes, and the said Thomas Jones and Maria his wife, formerly the said Maria Hughes, are respectively now living.

13. *Show means of knowledge.*

File:

(*Short title of matter or cause, as in the advertisement.*)

454.  
Fees of per  
the clerk of  
clerk under  
Order: \$20.

I, the undersigned (*Set out, in full, the christian and surname, address, and description of the claimant*), beg to inform you that I claim to be a creditor upon the estate of A. B., late of (i.e.: *as in the advertisement*), for the sum of \$*insert* (*Set out, or refer to an enclosure, containing the full particulars of the claim: as thus: being money lent by me to the said A. B. on the --- day of ---, 18--. Or, for goods sold and delivered by me to the said A. B.: the full particulars whereof are comprised in the paper writing marked I, sent herewith*); and that the only security I hold for the debt so due to me, or any part thereof, is (*State the nature of the securities, if any: as thus: an I. O. U. of the said A. B. for the said \$---, dated ---, 18--.*) *Or, and that I do not hold any security whatsoever for the debt so due to me, or any part thereof.*

(*Signature of creditor, and date.*)

To (Name and address of the person to whom, by the advertisement, the notice is directed to be sent).

In Chancery.

(*Title of cause, or matter.*)

455.  
Affidavit of  
non receipt of  
any claim under  
the Advertise-  
ment.

I, B. F., of (Place of business), gentleman, the solicitor in this cause [Or, matter] for the above named plaintiff [Or, defendant C. D.—or as may be], the executor [Or, administrator] of A. B., late of (residence and abode: *as in the advertisement*), deceased, make oath and say, as follows:

I. No claim, or particulars of any claim, has or have been sent in to me (*If so, add: or to my firm of F. & Co., of ---, aforesaid—as in the advertisement*) by any person or persons claiming to be a creditor or creditors of the said A. B., deceased, pursuant to the advertisement issued in that behalf in this cause [Or, matter], dated the --- day of ---, 18—, and which was published in the *Hamilton Spectator* of the --- day of ---, 18—.

Sworn (i.e.: see ante, No. 15).

Formal parts: see ante, No. 12.

456.  
Affidavit, to  
prove a debt  
due to a judg-  
ment.

1. A. B., the testator [Or, intestate] in the decree [Or,



order] dated the — day of —, 18 —, in this cause [Or, matter], was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of £ —, for principal money, and for interest thereon at the rate of £6 per cent. per annum from the — day of —, 18 —, upon and by virtue of a judgment recovered by me against the said A. B. in Her Majesty's Court of Queen's Bench at Toronto [or as may be], and duly signed on the — day of —, 18 —, for the sums of £2000 debt, and £5 18s. costs.

2. The said judgment now remains in full force and virtue.

3. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, lastly say, that I have not, nor hath nor have any other person or persons by my order, or for my use, received any security or satisfaction whatsoever for the said sum of £ —, and interest, or any part thereof respectively, save and except the said judgment [or as may be].

457.  
Affidavit to  
prove a debt due  
on a mortgage,  
and covenant to  
pay.

*Formal parts: see ante, No. 12.*

1. By an indenture dated the — day of —, 18 —, now produced and shown to me, and marked A., and made between A. B., the testator [Or, intestate] in the decree [Or, order] dated the — day of —, 18 —, in this cause [Or, matter] named, of the one part, and me of the other part, the said A. B. granted and conveyed lot No. one in the first Concession of the township of Barton, in the county of Wentworth, with the appurtenances, unto and to the use of me, my heirs and assigns: subject to a proviso for redemption thereof, in case the said A. B., his heirs, executors, or administrators, should on the — day of —, 18 —, pay to me, my executors, administrators, or assigns, the sum of £5000, with interest thereon in the meantime at the rate of £6 per cent. per annum; and the said A. B., for himself, his heirs, executors, and administrators, thereby covenanted with me, to pay me the said sum of £5000, with interest as aforesaid, according to the said proviso. The said mortgage was given to secure the sum of £5000 cash, lent and advanced by me to the said A. B., at the date thereof (Or, as the case may be).

2. On the — day of —, 18 —, the said A. B. paid to me the sum of £1000 in part discharge of the said £5000.

3. The said A. B. was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of £4000, residue of the said £5000, with interest on the said £4000 at the rate aforesaid, from the — day of —, 18 —, upon and by virtue of the said indenture.

4. And I, speaking positively, (*Continue as in par. 3 of No. 456, ante, to the end: varying the statement, where necessary.*)

*Formal parts : see ante, No. 12.*

1. A. B., the testator [Or, intestate] in the decree [Or, order] dated the — day of —, 18 —, in this cause [Or, matter] named, made his bond dated the — day of —, 18 —, to me in the penal sum of £—, conditioned for the payment by him, his executors or administrators, to me of the sum of £200, on the — day of —, 18 —, together with interest thereon, in the mean time, at the rate of £6 per cent. per annum; and which said bond is now produced and shown to me, and is marked A. (*Show consideration, as in No. 457.*)

**455.**  
Affidavit to prove a debt due on a common money bond.

2. The said A. B. was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of £100, with interest thereon at the rate aforesaid from the — day of —, 18 —, upon and by virtue of the said bond.

3. And I, speaking positively (*Continue as in par. 3 of No. 456, ante, to the end : varying the statement, where necessary.*)

*Proceed as in No. 458 to, conditioned; and continue thus :*  
for the payment by him, his executors or administrators, of the sum of £20 a year to me, during the life of E. F.: who is still living [or as may be]; and which said bond is now produced and shown to me, and is marked A. (*Show consideration, as in No. 457.*)

**459.**  
The like, on bond to secure an annuity.

2. The said A. B. was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of £40, for arrears of the said annuity computed to the — day of —, 18 —, upon and by virtue of the said bond.

3. And I, speaking positively (*Continue as in par. 3 of No. 456, ante, to the end : varying the statement, where necessary.*)

*Formal parts : see ante, No. 12.*

1. A. B., the testator [Or, intestate] in the decree [Or, order] dated the — day of —, 18 —, in this cause [Or, matter] named, was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of £80, for principal money due on a bill of exchange dated the —, 18 —, drawn by me upon, and accepted by the said A. B., for the payment of £80 to me, — months after the date thereof;

**460.**  
The like, on a bill of exchange.

*Or* due on a bill of exchange dated, &c., drawn by one C. D. upon and accepted by the said A. B., for the payment of £80 to me, — months after the date thereof; *Or*, due to me as indorsee of a bill of exchange, dated, &c., drawn by C. D., upon and accepted by the said A. B., for the payment of £80 to the order of the said C. D., — months after the date thereof, and by him indorsed to me [or as may be];

together with interest on the said principal sum, at the rate of £5 per cent. per annum, from the — day of —, 18—; and which said bill of exchange is now produced and shown to me, and is marked A. (*Show consideration, as in No. 457*).

2. And I, speaking positively (*Continue as in par. 3 of No. 456, ante, to the end: varying the statement, where necessary*),

**461.**  
Affidavit to  
prove a debt  
due on a promissory note.

*Proceed as in No. 460, ante, to principal money; and continue thus:*

due on a promissory note dated the —, 18 —, for £90, made by the said A. B., whereby he promised to pay to me or my order the sum of £90, one month after the date thereof;

*Or*, due on a promissory note dated, &c., for £90, made by the said A. B., and payable to me on demand;

*Or*, due to me as indorsee of a promissory note, dated, &c., made by the said A. B., for the payment of £90 to the order of E. F., — months after the date thereof, and by the said E. F. indorsed to me [*or as may be*];

together with interest (*Continue as in No. 460, ante, to the end: substituting promissory note, for bill of exchange*).

**462.**  
The like, on a  
check.

*Proceed as in No. 460, ante, to principal money; and continue thus:*

due to me as the payee of a banker's check, dated the —, 18 —, drawn by the said A. B. on Messrs. C. D. & Co., for the payment of £30 to me or bearer, on demand;

*Or*, due to me as the bearer of a banker's check, dated, &c., drawn by the said A. B. on Messrs. C. D. & Co., for the payment of £30 to E. F. or bearer, on demand, and by the said E. F. transferred and delivered to me;

and which said check has been duly presented to, and refused payment by, the said Messrs. C. D. & Co.; and is now produced and shown to me, and is marked A.

2. And I, speaking positively (*Continue as in par. 3 of No. 456, ante, to the end: varying the statement, where necessary*).

**463.**  
Affidavit to  
prove a debt  
due on simple  
contract.

*Formal parts: see ante, No. 12.*

1. A. B., the testator [*Or*, intestate] in the decree [*Or*, order], dated the — day of —, 18 —, in this cause [*Or*, matter], named, was at the time of his death, and his estate still is, justly and truly indebted to me in the sum of £150 for (*State what; as in the following examples:*

for money lent by me to the said A. B., at his request.  
for money paid by me for the use of the said A. B. at his request.

for money received by the said A. B. for my use.  
 for money found to be due from the said A. B. to me, on  
 an account stated between us.  
 for goods sold and delivered by me to the said A. B.  
 for work done, and materials for the same provided by  
 me for the said A. B., at his request.  
 for salary due and payable from the said A. B. to me,  
 for my services done for the said A. B. as his clerk, and  
 on his retainer.  
 for work done by me as the agent of and for the said A.  
 B., and on his retainer, and for commission and reward  
 due and of right payable from him to me in respect  
 thereof.  
 for work done as an attorney and solicitor, and materials  
 for the same provided, by me for the said A. B., upon  
 his retainer, and for fees due and payable to me in re-  
 spect thereof, and for money paid by me for the use of  
 the said A. B., at his request).

*If so:* and in the further sum of £6 for interest upon, and  
 for the forbearance at interest to the said A. B. by me, at  
 his request, for divers spaces of time, of moneys due and  
 owing to me from the said A. B.; and which interest the  
 said A. B. contracted and agreed with me to pay me.

2. The full particulars of my aforesaid demand are set  
 forth in the paper writing now produced and shown to me,  
 and marked A.—*Where applicable, add:* The prices charged  
 in the said paper writing marked A. are fair and reasonable,  
 and such as are usual and customary in the trade or business  
 [Or, profession] of a timber merchant [or as may be]: as I  
 know from having carried on such trade, &c., for — years  
 last past.

3. And I, speaking positively (*Continue as in No. 456,*  
*ante, to the end: varying the statement, where necessary*).

In Chancery.

(*Title of cause or matter.*)

I, C. D., of (*residence and addition*), the executor of the will  
 [Or, administrator of the personal estate] of E. F., late of  
 (*residence and addition*): who died on the — day of —,  
 18 —: acting under probate of such will [Or, letters of ad-  
 ministration of such estate] granted to me on the — day  
 of —, 18 —, make oath and say, as follows:

1. *State, in numbered paragraphs, the nature and existence of  
 the debt: as in Nos. 456—463, ante; and conclude as follows:*

2. And I, speaking positively for myself, and to the best  
 of my knowledge and belief as to other persons, lastly say,  
 that the said E. F. did not in his lifetime, and I have not,

464.  
 Affidavit by a  
 personal repre-  
 sentative, to  
 prove a debt  
 due to the estate

nor have nor hath any other person or persons by the order of the said E. F., or of myself, or for his or my use, received any security or satisfaction whatsoever for the said sum of £ — [or as may be].

Sworn (i.e.: see ante, No. 15).

463.  
Notice of motion, for leave to make a claim, where the time allowed has expired, but before Master's report.

*Formal parts: see ante, No. 53.*

on the part of A. B., of (*residence and addition*), that, notwithstanding the time limited for entering claims has expired, he may be at liberty, under the decree [*Or, order*] dated the — day of —, 18 —, in this cause [*Or, matter*], to enter and establish his claim (*State in respect of what; or thus: as a creditor upon the estate of C. D., the testator [Or, intestate] in the said decree [Or, order] named, for the sum of £ —*).

466.  
Petition, to be admitted as a creditor, after direction to apportion fund amongst certified creditors, but before apportionment made.

*Title—and address: see ante, No. 54.*

The humble petition of A. B., of (*residence and addition*).

Showeth as follows:

*Show nature of the suit, and the proceedings had therein; as thus:* 1. This suit was instituted for the administration of the estate of C. D.; and by the decree made therein, dated the — day of —, 18 —, the usual accounts and inquiries were directed to be taken and made, including an account of the debts of the said C. D.

2. The Master at —, made his report, dated the — day of —, 18 —, in pursuance of the said decree; and thereby certified the result of the said account of debts, and of the other accounts and inquiries directed by the said decree.

3. The said Master's report having become confirmed on the — day of —, 18 —, this cause came on to be heard on further consideration on the — day of —, 18 —; and by an order then made of that date, the costs of this suit were directed to be taxed, and to be paid out of the sum of £1000 cash in the bank on the credit of this cause; and the residue of such cash was thereby directed to be apportioned amongst the creditors of the said C. D., in proportion to the respective amounts certified to be due to them by the said Master's report.

4. Pursuant to the said order, the costs thereby directed to be taxed have been carried into the office of the Taxing Master; but the taxation thereof is not yet completed; and no apportionment of the residue of the said fund has yet been made.

*Show nature of petitioner's claim; and why omitted to be made before; as thus:* 5. The said C. D. was, at the time of his death, and his estate still is, justly and truly indebted to your petitioner in the sum of £80, for goods sold and delivered by your petitioner to the said C. D., in the course of your petitioner's trade as a wine merchant. Your petitioner on the — day of —, 18 —, for the first time became aware of the death of the said C. D., and that his estate was under administration by this Honorable Court. By reason of your petitioner's ignorance of the existence of this suit, no claim by or on the part of your petitioner in respect of his said debt was made under the said decree; and your petitioner's said debt is omitted from the said Master's report.

6. Your petitioner is now desirous to establish his said debt against the assets of the said C. D. in this suit.

Your petitioner therefore humbly prays that he may be allowed to rank as a simple contract creditor upon the estate of the said C. D. for the said sum of £80, and for interest thereon at the rate of £6 per cent. per annum from the date of the said decree; and that, notwithstanding the said order on further consideration, the residue which will remain of the said £1000, after payment of the said costs, may be directed to be apportioned amongst your petitioner, in respect of his said debt and interest, and the several creditors of the said C. D. certified by the said report, in proportion to the respective amounts so due to your petitioner, and the said other creditors; and that the apportioned sums may be directed to be paid to your petitioner and the said other creditors accordingly.

Or that (*Continue as in prayer of No. 55, ante, to the end*).

*Formal parts: see ante, No. 53.*  
on the part of A. B., of (*residence and addition*):

1. That he may be allowed to rank as a simple contract creditor upon the estate of C. D., the testator [*Or, intestate*] in the decree in this cause dated the — day of —, 18 —, named, for the sum of £80, and for interest thereon at the rate of £6 per cent. per annum from the date of the said decree.

2. That, notwithstanding the order on further consideration dated the — day of —, 18 —, the residue which will remain of the sum of £1000 therein mentioned, after payment of the costs thereby directed to be taxed, may be directed to be apportioned amongst the applicant, in respect

467.  
Notice of motion, to be admitted as a creditor, after direction to apportion fund amongst certified creditors, but before apportionment made.

of his said debt and interest, and the several other creditors of the said C. D. whose debts are certified by the Master's report dated the — day of —, 18 —, in proportion to the respective amounts due to the applicant, and the said other creditors.

3. That the apportioned sums may be directed to be paid to the applicant, and the said other creditors accordingly. And take notice (*as in* No. 53).

## 468.

Notice of motion, for payment by claimant, of costs of his unsuccessful claim.

*Formal parts: see ante, No. 53.)*

on the part of the plaintiff [*or as may be*], that the costs occasioned to the applicant, and the other parties to this suit [*or as may be*], by reason of the claim made by E. F., of (*residence and addition*), to rank as a creditor upon the estate of the testator G. H. [*or as may be*], under the decree [*Or, order*] dated the — day of —, 18 —, but which claim has been disallowed, may be ascertained at chambers, or taxed by the Taxing Master; and that the said E. F. may be ordered to pay such costs to the applicant and other parties entitled thereto [*or as may be*].

469.  
List of debts allowed.

In Chancery.

(*Short title*)

List of debts allowed.

No. of entry (if any) of claim.	Names of creditors	Addresses.	Amounts allowed for principal, interest, and costs.	Total amounts due.
			£ s. d.	£ s. d.
2	James Allen . .	Boston in the county of Lincoln, Surgeon . .	100 0 0	106 2 0
		Interest . . . . .	4 0 0	
		Costs . . . . .	2 2 0	
1	Charles Cochen,	98, Piccadilly, in the county of Middlesex, Gentleman, Executor of John Thomas . .	67 0 0	73 4 0
		Interest from 5th October, 1866, at 4½ per cent. .	4 2 0	
		Costs . . . . .	2 2 0	
5	John Dennis, and Owen Thomas .	16, Fleet Street, London, Grocers, and copartners . .	100 0 0	171 14 6
		Interest from 16th October, 1866, at 4½ per cent. .	5 0 0	
		Another debt . . . .	62 0 0	
		Interest . . . . .	2 10 0	
		Costs . . . . .	2 4 6	
		Total	£	351 0 6

*Inquiries as to Legacies and Annuities.*

In Chancery.

(*Title of cause or matter.*)

470.  
Affidavit by a  
beneficiary, as  
to incumbrances  
by him.

I, John Jones, of (*residence and addition*; and identify the deponent with the cause or matter; as thus: one of the defendants above named—*Or*, in the plaintiff's bill in this cause named—*Or*, one of the children of Ephraim Jones, the testator in the decree in this cause (*Or*, matter) dated the — day of —, 18 — named—*or as may be*), make oath and say as follows:

I have not at any time mortgaged, charged, or otherwise incumbered the legacy of £1000 bequeathed to me by the will of the said testator Ephraim Jones, or any part thereof [*or as may be—according to the inquiry directed*], to, or in favor of, any person or persons whomsoever—*If so*: save and except as hereinafter mentioned, that is to say: By an indenture dated the — day of —, 18 —, and made between myself of the one part, and Charles Davies, of, &c., of the other part, I assigned the said legacy, and the interest due, and to accrue due in respect thereof, unto the said Charles Davies, to secure to him the repayment of £100, with interest thereon at the rate of £5 per cent. per annum; and which sum, with interest thereon at the rate aforesaid from the — day of —, 18 —, remains due to the said Charles Davies upon the security of the said indenture [*or as may be*].

Sworn (&c.: see ante, No. 15).

In Chancery.

(*Title of cause or matter.*)

471.  
Affidavit by an  
executor, or a  
trustee, as to  
notices received  
of incumbrances

I, A. B., of (*residence and addition*), the above named defendant, and the executor of the will of Ephraim Jones, the testator in the decree [*Or*, order] in this cause [*Or*, matter] dated the — day of —, 18 —, named [*or as may be*] make oath and say as follows:

I have not at any time received notice of any mortgage, charge, or incumbrance created by any person or persons interested under the will of the said Ephraim Jones of the legacies, shares, or interests, thereby bequeathed to them respectively, or any part or parts thereof [*or as may be—according to the inquiry directed*]—*If so*: save and except the — notices now produced and shown to me, and marked respectively A., B., &c.; and which notices were received by me on the respective days set forth in the first column of the schedule hereto; and the short particulars of the said notices are set forth in the second column of such schedule, opposite the respective days on which such notices respectively were so received.



## The Schedule above referred to.

Date when notice received.	Short particulars.
1st January, 1865 . . .	A notice, dated —, 18 —, from Messrs. A. & B., of, &c., of an assignment by John Jones of his legacy of £1000 to Charles Davies, of, &c., to secure £100 and interest.
8th August, 1866 . . .	A notice, &c., &c.

Sworn (&amp;c.: see ante, No. 15).

## In Chancery.

479.  
List of legacies  
remaining un-  
paid.

(Short title.)

## List of Legacies remaining unpaid.

Serial No.	Names of legatees	Descriptions.	Amounts of principal and interest.	Total amounts due.
			£ s. d.	£ s. d.
1	James Oliver,	Son of testator, an infant . . . . .	100 0 0	107 5 6
		Interest . . . . .	7 5 5	
2	Mary Russell,	of 20, Cheapside, London, widow . . . . .	50 0 0	54 8 4
		Interest from 1st January, 1867, the death of testator . . . . .	4 8 4	
3	Jane, the wife of John Williams, .	of Lincoln, Esq. . . . .	250 0 0	214 11 0
		Paid in part . . . . .	50 0 0	
		Interest . . . . .	200 0 0	
			14 11 0	
		Total . . . . .	£ 376 4 10	

## In Chancery.

473.  
List of annuities, and arrears due.

(Short title.)

## List of Annuities, and arrears due.

Serial No.	Names of annuitants.	Description of annuitants, and nature of annuities.	Amounts of annuities.	Amounts of arrears due.
			£ s. d.	£ s. d.
1	Mary Jones .	Spinster, daughter of testator, during her life . . . . .	50 0 0	25 0 0
		Totals . . . . .	£ 50 0 0	25 0 0

*Suits for Specific Performance.*

*Formal parts : see ante, No. 53.*

on the part of the plaintiff, that an inquiry may be directed whether a good title can be made to the hereditaments comprised in the agreement dated the — day of —, 18 —, in the plaintiff's bill mentioned [*or as may be*]; and if a good title can be made, then a further inquiry when it was first shown that a good title could be made.

474.  
Notice of motion, for an inquiry as to the title.

In Chancery.

(*Short title.*)

Statement of the points in dispute between the plaintiff and defendant, as to the title to the hereditaments comprised in the agreement dated —, 18 —, in the plaintiff's bill mentioned [*or as may be*], end by the order dated —, 18 —, directed to be inquired into.

475.  
Statement of the points in dispute, for chambers.

A. Plaintiff's requisitions, dated —, 18 —.	B. Defendant's replies, dated —, 18 —.	C. Plaintiff's replies, dated —, 18 —.
1.	1.	1.
2.	2.	2.
3.	3.	3.

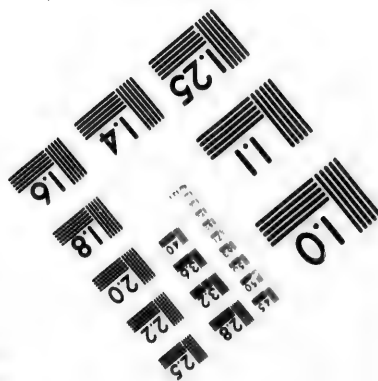
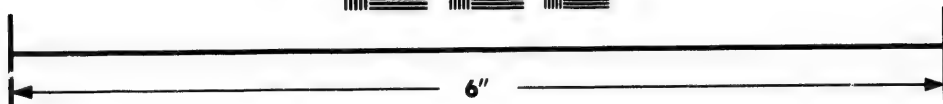
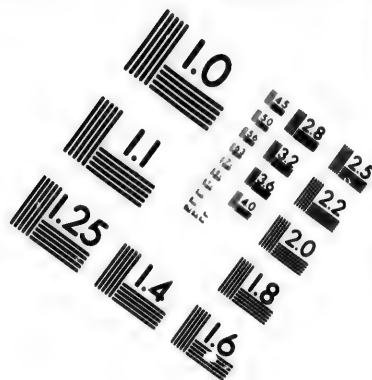
*Formal parts : see ante, No. 53.*

on the part of the plaintiff:

1. That the defendant A. B. may be ordered, on the — day of —, 18 —, between the hours of twelve and one of the clock in the afternoon, to pay to the plaintiff C. D., at — [*or as may be*], the sum of —, by the Master's report dated the — day of —, 18 —, certified to be due to the plaintiff for principal interest, and costs as therein mentioned, together with interest at the rate of £ — per cent. per annum on — part thereof, from the last mentioned day to the day of payment; and also the plaintiff's costs of, and occasioned by, this application: such costs to be taxed by the Master at —, in case the parties differ.

476.  
Notice of motion, to fix time for payment of amount due to the vendor.

2. That upon such payment being made, the plaintiff may execute and deliver to the defendant the indenture of conveyance from the plaintiff to the defendant in the said report mentioned; and deliver to the defendant, upon oath,



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all deeds and writings in his custody or power relating to the hereditaments in the said report also mentioned [or as may be]. And take notice (as in (No. 53).

*Investments in the Purchase, or on Mortgage, of an Estate.*

477.  
Petition for the  
investment of a  
fund in Court,  
in a purchase,  
or on mortgage.

*Title—and address: see ante, No. 54.*

The humble petition of the plaintiff [or as may be].

Showeth as follows:

*Show that the fund in Court is available for investment; as thus:*

1. A. B., the testator in the pleadings of this cause named, by his will, dated the — day of —, 18 —, bequeathed to the defendants C. D. and E. F., the residue of his personal estate, upon trust to convert the same into money, and to invest such money in their names in the purchase of freehold hereditaments, or on real securities, in —; and to permit your petitioner to receive the rents and profits or other income of such investment, during his life; with remainders over.

2. The testator died on the — day of —, 18 —, without having revoked or altered his said will; and probate of such will was, on the — day of —, 18 —, granted by the Court of Probate to the defendant C. D. and E. F., the executors therein named.

3. This suit was instituted for the administration of the estate of the said A. B.; and by the decree made therein, dated the — day of —, 18 —, the trusts of the said will were directed to be performed, and carried into execution; and the usual accounts and inquiries as to the estate of the testator were directed to be taken and made; and the clear residue of his personal estate was directed to be ascertained and certified.

4. Pursuant to the said decree, the Master made his report dated the — day of —, 18 —, and thereby certified that there was no debt of the said testator remaining unpaid; and that the clear residue of his personal estate consisted, amongst other things, of the sum of £10,000 standing in Court in trust in this cause, "The personal estate account."

5. By an order dated the — day of —, 18 —, on the hearing of this cause on further consideration, the interest of the said £10,000 was directed to be paid to your petitioner during his life, or until further order.

*Show the investment proposed to be made; as thus:*

6. Your petitioner, on behalf of the parties interested under the testator's will in his residuary personal estate, lately entered into an agreement (conditional on the approval thereof

by this Honorable Court) with G. H., of, &c., dated the — day of —, 18 —, for the purchase from the said G. H., at the sum of £6,000 [*Or*, for a loan to the said G. H. of the sum of £6,000, on the security of a mortgage, bearing interest at £ — per cent. per annum], of certain freehold hereditaments belonging to the said G. H., situate at, &c., and comprising about — acres: to which agreement your petitioner craves leave to refer.

7. The said proposed purchase [*Or*, loan] is a fit and proper investment of the sum of £6,000 in accordance with the trusts of the testator's will; and your petitioner is desirous that the same should be approved by this Honorable Court; and that the said £6,000 should be paid out of the said £10,000.

Your petitioner therefore humbly prays:

1. That the said agreement may be carried into effect.
2. That the usual inquiry may be directed, as to the title to the said hereditaments.
3. That in case such title shall be approved, a proper conveyance [*Or*, mortgage] of the said hereditaments may be directed to be settled.
4. That upon the due execution thereof by all proper parties, the said £6,000 may be paid out of the said £10,000, and paid to such person or persons as shall be certified to be entitled to receive the same.
5. That the costs of your petitioner, and all other proper parties, of this application, and consequent thereon, including the investigation of the title to the said hereditaments, (except such costs as shall be properly payable by the said G. H.,) may be taxed, and be raised and paid out of the said fund in Court.
6. That the rents and profits of the hereditaments so to be purchased [*Or*, the interest to accrue on the said investment on mortgage], and also the interest to accrue on the residue, for the time being, during the life of your petitioner, may be directed to be paid to him, or his legal personal representatives, until further order.

Or that your lordships (*Continue as in prayer of No. 5k, ante, to the end*).

*Formal parts: see ante, No. 53.*

on the part of the defendants C. D. and E. F. [*or as may be*]:

478.

Notice of motion, to approve of the investment by trustees of a fund in their names, in a purchase, or on mortgage.

1. That the conditional agreement dated the — day of —, 18 —, entered into by the applicants with G. H., of, &c., for the purchase from him, at the sum of £6,000 [*Or, for a loan to him of the sum of £6,900 on the security of a mortgage, bearing interest at £— per cent.*], of certain hereditaments belonging to him, situate at, &c., may be approved on behalf of the parties interested under the will of A. B., the testator in the pleadings named, in the residuary personal estate; and be carried into effect.

2. That the usual inquiry may be directed as to the title to the said hereditaments.

3. That in case such title shall be approved, a proper conveyance [*Or, mortgage*] of the said hereditaments to the applicants, the trustees of the said will, may be settled.

4. That upon the due execution thereof by such parties as shall be certified to be proper, the applicants may be at liberty to pay the said £6,000, out of a fund of £10,000 standing in their names, and forming part of the testator's residuary personal estate held by them upon the trusts of the testator's will; and to pay the said £6,000 to such person or persons as shall be certified to be entitled to receive the same.

5. That the costs of the applicants, and all other proper parties, of this application, and consequent thereon, including the investigation of the title to the said hereditaments, (except such costs as shall be properly payable by the said G. H.) may be taxed; and that the applicants may be at liberty to pay such costs out of the said fund and retain their own costs, and pay the other costs to the parties entitled. And take notice (*as in No. 53*).

479.

Affidavit of a surveyor, in support of the petition or summons.

In Chancery.

(*Title of the cause or matter.*)

I, J. W., of (*residence*), land surveyor [*or as may be*], make oath and say as follows:

1. I have carried on the business of a land surveyor at — aforesaid for — years and upwards last past; and have had, during that period, considerable experience in such business; and I believe myself well qualified to judge of the value of the estate hereinafter mentioned, and of like property in the vicinity thereof.

2. In pursuance of instructions received by me from Messrs. X. & Y., the solicitors in this cause for the plaintiff [*or as may be*], I, on the — day of —, 18 —, on behalf of the said plaintiff [*or as may be*], made a careful survey of the estate mentioned and described in the paper writing

marked A., now produced and shown to me, and purporting to be (*State what; as thus*: the particulars of the Blackacre estate, belonging to G. H., situate at, &c.), and delineated on the plan, marked B., thereunto annexed, and now also produced and shown to me.

3. I believe that the acreage and other particulars of the estate so surveyed by me are correctly set forth in the said paper writing marked A., and that the abuttals, boundaries and subdivisions thereof are correctly delineated on the said plan marked B.

4. I have also, in pursuance of the said instructions, made a careful estimate and valuation of the estate so surveyed by me; and in so doing I have taken into consideration the tenure and situation of the said estate, the nature and quality of the land, and what would be a fair price for a purchaser to pay for the said estate as an investment, and in expectation of being able to obtain a similar or better price for the same upon a re-sale.

5. To the best of my judgment and belief, founded on the survey, estimate and valuation aforesaid, the said estate is fully and fairly worth, as a present investment, the sum of £—.

6. *Add the special circumstances, if any, which render the proposed purchase or security desirable.*

Sworn (&c.: *see ante*, No. 15).

In Chancery. } —, the — day of —, A. D., <sup>479a.</sup>  
18—. <sub>Order for issue of attachment.</sub>

Between

Upon the application of the —, and upon hearing read —, and it appearing that the — has not brought into the office of — the accounts and statements — although duly required so to do. It is ordered that the Sheriff of any county or union of counties in which the said — may be found, do take the said — into his custody, and commit — to the gaol of his county or united counties, to answer — said contempt. And it is further ordered that a writ or writs of attachment do issue accordingly.

*Title—and address: see ante*, No. 54.

The humble petition of the defendant C. D. [*or as may be*].

Showeth as follows:

1. By an order made in this cause [*Or, matter*], dated the — day of —, 18—, your petitioner was directed to leave

<sup>480.</sup>  
Petition of course, for discharge from custody, on leaving accounts.



at chambers [*or as may be*], duly verified by affidavit, certain accounts and statements therein specified.

2. On the — day of —, 18 —, your petitioner was arrested on an attachment issued against him for his contempt in not leaving the said accounts and statements; and he is now in the custody of the Keeper of — prison [*or as may be*], for such contempt.

3. Your petitioner has now left the said accounts and statements at the said chambers; and has filed an affidavit duly verifying the same.

Your petitioner therefore humbly prays, that he may be discharged from the said custody touching his said contempt: upon payment or tender of the costs thereof to the (plaintiff's) solicitor or agent.

And your petitioner will ever pray, &c.

451.  
Certificate of  
accounts having  
been left.

*Formal parts.*

I certify that the within named petitioner has left at these chambers the within mentioned accounts and statements, pursuant to the within recited order of the —, 18 —; and has filed an affidavit duly verifying the same.

452.  
Notice of mo-  
tion, for dis-  
charge from  
custody on leav-  
ing accounts.

*Formal parts: see ante, No. 53.*

on behalf of the defendant C. D. [*or as may be*], that he may be discharged from the custody of the Keeper of — prison [*or as may be*], touching his contempt for not leaving certain accounts and statements at chambers, pursuant to the order dated —, 18 —: upon payment or tender of the costs of contempt to the (plaintiff's) solicitor or agent: the accounts and statements having now been left. And take notice (*as in* No. 53).

A copy of the order, and affidavit in support, accompany.

453.  
Affidavit in  
support.

*Formal parts: see ante, No. 12.*

1. The several accounts and statements which, by the order made in this cause [*Or, matter*] dated the — day of —, 18 —, the defendant C. D. [*or as may be*] was ordered to leave, duly verified by affidavit, at chambers, were left at the said chambers on the — day of —; and an affidavit of the said defendant C. D. [*or as may be*], duly verifying the said accounts and statements, was filed in the Record and Writ Clerk's office on the — day of —, pursuant to the said order: as I know (*Show means of knowledge; as thus:*

from having left the said accounts and statements, and filed the said affidavit, in manner aforesaid).

2. The defendant C. D. [or as may be] is now in the custody of the Keeper of — prison [or as may be], under an attachment for a contempt in not leaving the said accounts and statements, pursuant to the said order: as I know from (Show means of knowledge).

*Formal parts: see ante, No. 53.*

on the part of the defendant C. D. [or as may be], that he may be discharged from the custody of the Keeper of — prison [or as may be], touching his contempt for not leaving at chambers certain accounts and statements, duly verified by affidavit, pursuant to the order dated the — day of —, 18 —: upon payment or tender of the costs of contempt to the (plaintiff's) solicitor or agent. And take notice (as in No. 53).

454.

Notice of motion, for discharge from custody, on leaving accounts.

In Chancery.

(Title of the cause.)

We, A. B., of (residence and addition), C. D., of, &c., and E. F., of, &c., the above named defendants [or as may be], severally make oath and say, as follows:—

455.

Affidavit by joint executors and trustees, verifying their accounts, and answering the usual inquiries, as to real and personal estate.

1. We have according to the best of our knowledge, remembrance, information and belief, set forth in the first schedule hereunder written, a full, true, and particular account and inventory of the personal estate of or to which G. H., the testator [Or, intestate] in the decree [Or, order] dated the — day of —, 18 —, made in this cause named or referred to, and who died on the — day of —, 18 —, was possessed or entitled at the time of his death—If the decree or order directs only an account of personal estate not specifically bequeathed, add: and not by him specifically bequeathed.

Inventory of personal estate at death (1).

2. Save what is set forth in the said first schedule—If so: and what is by the said testator specifically bequeathed—the said testator [Or, intestate] was not, to the best of our knowledge, information, or belief, at the time of his death possessed of, or entitled to, any debt or sum of money due to him from us, or any or either of us, on any

(1) The first schedule to the affidavit should show the state of the assets at the testator's death; the second, at the time the affidavit is sworn; and the account of personal estate, verified by the affidavit, should disclose all the receipts and payments in respect of the assets between those periods. Thus, where a testator leaves a sum of bank stock, which the executor afterwards sells, and invests the proceeds in three per cent. consols; the bank stock will appear in the first schedule; the proceeds of the sale on the debit side of the account; the cost of the consols on the credit side; and the amount of the consols will form an item in the second schedule, as an asset outstanding or undisposed of.

account whatsoever, nor to any leasehold, or other personal estate, goods, chattels, or effects, in possession, or reversion, absolutely, or contingently, or otherwise howsoever.

3. The debts of the said testator [*Or, intestate*] are those set forth in our affidavit made under Order 480 of the Con. G. O. of June, 1868, and filed on the — day of —, 18 — (m).

Funeral expenses.

4. The testator's [*Or, intestate's*] funeral expenses have been paid; and the same consist of the items of disbursement numbered — and — in the account marked A. hereinafter referred to [*Or, if not paid, state the amount due, and to whom due; as thus: The said testator's [funeral expenses amount to £—; and the same remain due to J. S., of N., in the (county) of M., undertaker.*]

Account of personal estate.

5. We have, in the account marked A. now produced and shown to us (n), according to the best of our knowledge, information and belief, set forth a full, true and particular account of the personal estate of the said testator [*Or, intestate*] — *If so: not by him specifically bequeathed—which has come to our hands, or to the hands of any or either of us, or to the hands of any person or persons by our, or any or either of our order, or for our, or any or either of our use: with the times when, the names of the persons from whom, and on what account, the same has been received; and also a like account of the disbursements, allowances, and payments made by us, or any or either of us, in respect of, or on account of, the said testator's [Or, intestate's] funeral expenses, debts, and personal estate: together with the times when, the names of the persons to whom, and the purposes for which, the same were disbursed, allowed, or paid.*

6. We have, in the account marked B. now produced and shown to us, according to the best of our knowledge, information and belief, set forth a full, true and particular account of the legacies left by the said testator.

7. We, each speaking positively for himself, and to the best of his knowledge and belief as to other persons, further say: that save and except as appears in the said account marked A., we have not, nor has any or either of us, nor have nor has any other persons or person by our, or any or either of our order, or for our, or any or either of our use, possessed, received, or got in, any part of the said testator's [*Or, intestate's*] personal estate, nor any money in respect thereof; and that the said account marked A. does not contain any item of disbursement, allowance, or payment, other than

(m) The form of this affidavit is given post No. 467a, and is No. 3 of Schedule V to Order 480 of the C. G. O. of June, 1868.

(n) For form of this account, see post, No. 468. Where the decree or order directs that, in taking the account, capital is to be distinguished from income, the account should be divided into two parts: the first embracing the transactions as to capital; the second as to income; and the affidavit varied accordingly.

such as has actually been disbursed, paid, or allowed, on the account aforesaid.

8. To the best of our knowledge, information, and belief, the personal estate of the said testator [*Or*, intestate] now outstanding, or undisposed of, consists of the particulars set forth in the second schedule hereunder written (*o*). Personal estate outstanding.

9. Save what is set forth in the said second schedule, there is not, to our knowledge, information, or belief, any part of the said testator's [*Or*, intestate's] personal estate now outstanding, or undisposed of.

10. We have, according to the best of our knowledge, remembrance, information, and belief, set forth in the third schedule hereunder written the particulars of all the real estate which the said testator [*Or*, intestate] was seized of, or entitled to (*Follow the words of the decree or order ; as thus :*) Real estate at death.  
at the time of his death.

*Or*, at the date of his will, and at the time of his death —and, in the latter case, if any estates were acquired between those periods, distinguish the same ; as thus :

8. We have (*&c. : as above, to belief*), set forth in the first part of the third schedule hereunder written the particulars of all the real estate which the said testator [*Or*, intestate] was seized of, or entitled to, at the date of his will, and in the first and second parts of such schedule the particulars of all the real estate which the said testator was seized of, or entitled to, at the time of his death.

11. Save what is set forth in the said schedule, the said testator [*Or*, intestate] was not, to the best of our knowledge, information, or belief, at the date of his will, or at the time of his death, seized of, or entitled to, any real estate, in possession, remainder, or reversion, absolutely or contingently, or otherwise howsoever.

12. We have, according to the best of our knowledge, information, and belief, set forth in the fourth schedule hereunder written the particulars of all the incumbrances affecting the said testator's [*Or*, intestate's] real estate, and what part thereof such incumbrances respectively affect (*p*). Incumbrances.

13. We have, in the account marked C. now produced and shown to us (*q*), according to the best of our knowledge, information, and belief, set forth a full, true, and particular account of all the rents and profits of the said testator's [*Or*, intestate's] real estate which have come to our hands, or to Account of rents and profits.

(*o*) This schedule should contain all the existing assets: such as bank annuities, whether in the executors' names or in Court, and any cash in the hands of the executors: Bloxam, 48.

(*p*) If there is no incumbrance, alter the paragraph accordingly: see *post*, No. 490, par. 8.

(*q*) For form of this account, see *post*, No. 487.

the hands of any or either of us, or to the hands of any person or persons by our, or any or either of our, order, or for our, or any or either of our use; and the times when, the names of the person, from whom, on what account, in respect of what part of such estate the same have been received, and the times when the same became due; and also a like account of the disbursements, allowances, and payments, made by us, or any or either of us, in respect of the said testator's [*Or, intestate's*] real estate, or the rents and profits thereof, and the times when, the names of the persons to whom, and the purposes for which, the same were made.

14. And we, each speaking positively for himself, and to the best of his knowledge and belief as to other persons, further say: that, save and except as appears in the said account marked C., we have not, nor has any or either of us, nor have nor has any other persons or person by our, or any or either of our order, or for our or any or either of our use, possessed, received, or got in, any rents or profits of the said testator's [*Or, intestate's*] real estate, nor any money in respect thereof; and that the said account marked C. does not contain any item of disbursement, payment, or allowance, other than such as has actually been disbursed, paid or allowed, as above stated.

The first schedule above referred to.

Account of the testator's [*Or, intestate's*] personal estate, at his death.

(*Set out the particulars; as in the following examples:*)

1. £50, cash in the house.
2. £100, cash at the testator's bankers Messrs. A. & B.
3. £1000, bank 3l. per cent. annuities, standing in the testator's name.
4. £10, due from John James, for half year's rent of house at ———, to Michaelmas, 18 —.
5. £32 6s. 8d., balance remaining due from John Thomas, on account of half year's rent of farm at ———, to Michaelmas, 18 —.
6. £300, a debt due from Samuel Jones, on a bond: with interest from ———, at ——— per cent.
7. A leasehold house situate at ———, held under a lease for a term of ——— years, which will expire on ———, 18 —, at a rent of £— a year: underlet to James Evans for a term which will expire on ———, 18 —, at a rent of £50 a year.
8. £25, half a year's rent due from the said James Evans at Christmas, 18 —.

The second schedule above referred to.

Personal estate outstanding or undisposed of.  
*Set out the particulars; as in the above examples.)*

The third schedule above referred to.

Real estate.

*(Set out a short particular of the real estate; as in the following examples:)*

1. A freehold mansion, and grounds attached, containing about three acres, situate at ———, and called "The Evergreens:" in the testator's occupation at his death, and now in hand, described as follows *(Give full description)*.

2. A freehold farm, called "Low End Farm," situate at ———, containing about 500 acres, and in the occupation of James Evans, under a lease for a term which will expire at ———, 18 —, at the yearly rent of £600, described as follows *(Give full description)*.

3. Twenty freehold cottages, situate at ——— aforesaid, in the occupation of Michael Sullivan, &c., as weekly tenants, at rents amounting collectively to £— a year, described as follows *(Give full description)*.

The fourth schedule above referred to.

Incumbrances affecting the real estate.

*(Set out a short particular of the incumbrances; and show what part of the above real estate is subject to each; as in the following examples:)*

1. The mansion and grounds numbered 1 in the the third schedule above written, are subject to a mortgage created by the testator by indenture dated, &c., in favor of Reuben Johnson, and now vested in Alfred Symes, of *(residence and addition)*, as security for £500 due to him, with interest at £6 per cent.

2. The farm Numbered 2 in the said third schedule is charged with the payment of an annuity of £40 to Jemima Brown, of, &c., widow, during her life, under the will of the testator's brother Ephraim Hughes.

3. The closes of land Numbered 4 in the said third schedule are subject to the Dower of A. B., widow of the said testator *(Or, as the case may be)*.

In Chancery.

A.

*(Short title of the cause.)*

This account marked A. was produced and shown to A.B.,

486.  
Account of personal estate, referred to in No. 485.

## PROCEEDINGS IN THE JUDGES' CHAMBERS.

C. D., and E. F., [or as may be], and is the account referred to in their affidavit sworn this — day of —, 18 —.

before me,

(Signature of the Commissioner or Officer before whom the affidavit is sworn).

## RECEIPTS.

## DISBURSEMENTS.

No. of Item.	Date when received.	Names of persons from whom received.	On what account received.	Amount received.	No. of Item.	Date when paid or allowed.	Names of persons to whom paid or allowed.	For what purpose paid or allowed.	Amount paid or allowed.
				£ s. d.					£ s. d.
1	18—	. . . .	Found in house.		1	18—	James Price . .	Undertaker's bill for funeral	
2		Evans & Co. .	Balance at bankers . . .		2		Messrs. A. & B.	Proctors' bill for probate	
3		. . . .	Half year's dividend on £2000 bank		3		John George . .	A debt due to him for medical attendance . . .	
4		John James . .	Half year's rent of freehold, due — . .		4		James Price . .	Bond debt of £1000 and £25 for interest thereon from — to — . .	
5		Samuel Jones .	Bond debt of £300 and interest from — to — . .						
6		James Evans . .	Half year's rent of leasehold house, due — . .						
7		William Williams	Produce of sale of the above leasehold house . . .						

In Chancery.

## B.

(Short title of cause.)

This account marked B. was produced and shown to A. B. and C. D. [or as may be], and is the account referred to in their affidavit sworn this — day of —, 18 —,

before me,

(Signature of the Commissioner or Officer before whom the affidavit is sworn).

Legacies left by the testator [Or, intestate].

1. To his widow Jane —, all his household furniture (Following the words of the will).
2. To his son Y. Z., the sum of \$400 payable (Following the words of the will).



3. To his daughter Ann, Jane, and Mary, the sum of \$1,000 each payable (*Following the words of the will*).
4. To his son S. S., Lot No. —, in the township of —, in the county of —, in fee (*or as may be—Following the words of the will*).

In Chancery.

(*Short title of the cause.*)

This account marked C. was produced and shown to A. B., C. D., and E. F. [*or as may be*], and is the account referred to in their affidavit sworn this — day of —, 18—, before me,

(*Signature of the Commissioner or Officer before whom the affidavit is sworn.*)

487.  
Account of rents and profits, referred to in No. 485.

RECEIPTS.

DISBURSEMENTS.

No. of Item.	Date when received.	Names of persons from whom received.	On what account, and in respect of what part of the estate received, and when due.	Amount received	No. of Item.	Date when paid or allowed.	Names of persons to whom paid or allowed.	For what purpose paid or allowed.	Amount paid or allowed.
1	18—	John James . .	Half year's rent for farm in parish of —, due —.	£ s. d.	1	18—	Sun Insurance Office . . .	One year's insurance against fire, due —.	£ s. d.
2		Thomas Jones .	One quarter year's rent of house at —, due —.		2		Thomas Carpenter . . . .	Repairs at John James's farm . . . .	
3		John James . .	Same as No. 1, due —.		3		James Francis .	Income tax half year due 10th October, 18— . . .	

In Chancery.

(*Title.*)

We, C. D., of, &c., the above named plaintiff [*Or, defendant—or as may be*], the executors [*Or, administrators*], of A. B., late of —, in the county of —, deceased, and E. F., of, &c., solicitor, severally make oath, and say as follows:—

I, the said E. F., [solicitor] for myself, say as follows:

1. I have, in the paper writing now produced and shown to me, and marked A., set forth a list of all the claims the particulars of which have been sent to me by persons claim-

487a.  
Affidavit of executor or administrator as to claims under Order 480, being No. 3 of Schedule V referred to in that order.



ing to be creditors of the said A. B., deceased, pursuant to the advertisement issued in that behalf, dated the — day of —, 18 —.

And I, the said C. D., for myself, say as follows:

2. I have examined the several claims mentioned in the paper writing now produced and shown to me, and marked A., and I have compared the same with the books, accounts, and documents of the said A. B. [*or as may be, and state any other inquiries or investigations made*], in order to ascertain, as far as I am able, to which of such claims the estate of the said A. B. is justly liable.

3. From such examination [*and state any other reasons*], I am of opinion, and verily believe, that the estate of the said A. B. is justly liable to the amounts set forth in the sixth column of the first part of the said paper writing marked A.; and to the best of my knowledge and belief, such several amounts are justly due from the estate of the said A. B., and proper to be allowed to the respective claimants named in the said schedule.

4. I am of opinion that the estate of the said A. B. is not justly liable to the claims set forth in the second part of the said paper writing marked A., and that the same ought not to be allowed without proof by the respective claimants [*Or, I am not able to state whether the estate of the said A. B. is justly liable to the claims set forth in the second part of the said paper writing marked A., or whether such claims, or any parts thereof, are proper to be allowed without further evidence.*]

Sworn, &c.

485.  
Affidavit by  
joint executors  
and trustees,  
verifying their  
supplemental  
accounts of per-  
sonal estate,  
and rents and  
profits.

*Title—and names, &c., of the deponents: as in No. 485, ante.*

1. We have, in the account marked C., now produced and shown to us, according to the best of our knowledge, information, and belief, set forth a full, true, and particular account of the personal estate of G. H., the testator in the decree [*Or, order*] made in this cause, dated the — day of —, 18 —, named or referred to—*If so*: and not by him specifically bequeathed—which, since the — day of —, 18 —, (the time to which our former account thereof, marked A., verified by our affidavit filed in this cause the — day of —, 18 —, was made up and rendered), has come to our hands (*Continue as in par. 4 of No. 485, ante, to the end of that par.*).

2. We, each speaking positively for himself, and to the best of his knowledge and belief as to other persons, further say: that save and except as appears in the said accounts marked A. and C., we have not, nor has any or either of us, nor have nor has any other persons or person by our, or any

or either of our order, or for our or any or either of our use, possessed, received, or got in, any part of the said testator's personal estate, nor any money in respect thereof; and that the said account marked C. does not contain any item of disbursement, allowance, or payment, other than such as has actually been disbursed, paid, or allowed, on the account aforesaid.

3. To the best of our knowledge, information, and belief, the personal estate of the said testator now outstanding, or undisposed of, consists of the particulars set forth in the schedule hereunder written.

4. Save what is set forth in the said schedule, there is not, to our knowledge, information, or belief, any part of the said testator's personal estate now outstanding, or undisposed of.

5. We have, in the account marked D., now produced and shown to us, according to the best of our knowledge, information, and belief, set forth a full, true, and particular account of all the rents and profits of the said testator's real estate, which since the — day of —, 18 —, (the time to which our former account thereof, marked B., verified by our (said) affidavit filed in this cause the — day of —, 18 —, was made up and rendered), have come to our hands, or to the hands of any or either of us, or to the hands of any person or persons by our, or any or either of our order, or for our or any or either of our use; and the times when, the names of the persons from whom, on what account, in respect of what part of such estate the same have been received, and the times when the same became due; and also a like account of the disbursements, allowances and payments made by us, or any or either of us, in respect of the said testator's real estate, or the rents and profits thereof, and the times when, the names of the persons to whom, and the purposes for which, the same were made.

6. And we, each speaking positively for himself, and to the best of his knowledge and belief as to other persons, further say: that save and except as appears in the said accounts marked B. and D., we have not, nor has any or either of us, nor have nor has any other persons or person by our, or any or either of our order, or for our, or any or either of our use, possessed, received, or got in, any rents or profits of the said testator's real estate, nor any money in respect thereof; and that the said account marked D. does not contain any item of disbursement, payment, or allowance, other than such as has actually been disbursed, paid, or allowed as above stated.

The schedule above referred to.

*(Set out the particulars of the personal estate outstanding or undisposed of: For examples, see first schedule to No. 485, ante.)*

489.  
Affidavit by a  
sole executor  
or administra-  
tor, verifying  
his account  
and answering  
the usual in-  
quiries as to  
personal estate.

*Formal parts: see ante, No. 12.*

1. I have, according to the best of my knowledge, remembrance, information, and belief, set forth in the first schedule hereunder written a full, true, and particular account and inventory of the personal estate of or to which G. H., the testator [*Or, intestate*] in the decree [*Or, order*] made in this cause dated the \_\_\_\_\_ day of \_\_\_\_\_, 18 —, named or referred to, and who died on the \_\_\_\_\_ day of \_\_\_\_\_, 18 —, was possessed or entitled

*In a case of testacy, conclude as in par. 1 of No. 485, ante.*

*In a case of intestacy, conclude thus: at the time of his death.*

2. Save what is set forth in the said first schedule,

*In a case of testacy, add, if the decree or order is so qualified:*

and what is by the said testator specifically bequeathed, the said testator [*Or, intestate*] was not, to the best of my knowledge, information, or belief, at the time of his death possessed of, or entitled to, any debt or sum of money due to him from me, on any account whatsoever (*Continue as in par. 2 of No. 485, ante, to the end of par. 3: substituting "intestate's," for "testator's," where applicable*).

4. I have, in the account marked A., now produced and shown to me, according to the best of my knowledge, information, and belief, set forth a full, true, and particular account of the personal estate,

*In a case of testacy, add: of the said testator; and, if the decree or order is so qualified, add also: not by him specifically bequeathed,*

*In a case of intestacy, add: of the said intestate,* which has come to my hands, or to the hands of any person or persons by my order, or for my use; with the times when, the names of the persons from whom, and on what account the same has been received; and also a like account of the disbursements, allowances, and payments, made by me in respect of, or on account of, the said testator's [*Or, intestate's*] funeral expenses, debts, and personal estate: together with the times when, the names of the persons to whom, and the purposes for which the same were disbursed, allowed, or paid.

5. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, further say: that save and except as appears in the said account marked A., I have not, nor have nor has any other persons or person by my order, or for my use, possessed, received, or got in any part of the said testator's [*Or, intestate's*] personal estate, nor any money in respect thereof; and that the said account marked A. does not contain any item of disbursement, allowance, or payment, other than such as has actually been disbursed, paid, or allowed, on the account aforesaid.

6. To the best of my knowledge, information, and belief, the personal estate of the said testator [*Or, intestate*] now outstanding, or undisposed of, consists of the particulars set forth in the second schedule hereunder written.

7. Save what is set forth in the second schedule, there is not, to my knowledge, information, or belief, any part of the said testator's [*Or, intestate's*] personal estate now outstanding or undisposed of.

The first [*Or, second*] schedule above referred to.

(*The same as the first [*Or, second*] schedule to No. 485, ante: substituting, where applicable, "intestate's," for "testator's."*)

*Formal parts: see ante, No. 12.*

1. I have, according to the best of my knowledge, remembrance, information, and belief, set forth in the first schedule hereunder written, the particulars of all the real estate which G. H., the testator in the decree [*Or, order*] made in this cause, dated the — day of —, 18—, named or referred to, and who died on the — day of —, 18—, was seized of, or entitled to (*Continue as in par. 8 of No. 485, ante, to the end of that par.*).

485.  
Affidavit by a sole trustee of a testator's will, verifying his account of rents and profits, and answering the usual inquiries as to real estate.

2. Save what is set forth in the said schedule, the said testator was not, to the best of my knowledge, information, or belief, at the date of his will, or at the time of his death, seized of, or entitled to, any real estate in possession, remainder, or reversion, absolutely or contingently, or otherwise howsoever.

3. I have, according to the best of my knowledge, information, and belief, set forth in the second schedule hereunder written the particulars of all the incumbrances affecting the said testator's real estate, and what part thereof such incumbrances respectively affect [*Or, To the best of my knowledge, information, and belief, there is not any incumbrance affecting the said testator's real estate, or any part or parts thereof*].

4. I have, in the account marked A., now produced and shown to me, according to the best of my knowledge, information, and belief, set forth a full, true, and particular account of all the rents and profits of the said testator's real estate which have come to my hands, or to the hands of any person or persons by my order, or for my use; and the times when, the names of the person from whom, on what account, in respect of what part of such estate the same have been received, and the times when the same became due; and also a like account of the disbursements, allowances, and payments, made by me in respect of the said testator's

real estate, or the rents and profits thereof, and the times when, the names of the persons to whom, and the purposes for which, the same were made.

5. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, further say: that save and except as appears in the said account marked A., I have not, nor have nor has any other persons or person by my order, or for my use, possessed, received, or got in, any rents or profits of the said testator's real estate, nor any money in respect thereof; and that the said account marked A. does not contain any item of disbursement, payment, or allowance, other than such as has actually been disbursed, paid, or allowed, as above stated.

The first [*Or*, second—*Or*, third—*Or*, fourth] schedule above referred to.

(*The same as the corresponding schedules to No. 485, ante.*)

**491.**  
Affidavit by  
joint executors  
and trustees, of  
non-receipt of  
personal estate,  
or rents and  
profits.

*Title—and names, &c., of the deponents: as in No. 485, ante.*

1. We, each speaking positively for himself, and to the best of his knowledge and belief as to other persons, say: that we have not, nor has any or either of us, nor have nor has any other persons or person by our, or any or either of our order, or for our or any or either of our use, since the — day of —, 18— (the time to which our accounts thereof, marked respectively A. and B., verified by our affidavit filed in this cause the — day of —, 18 —, were made up and rendered), possessed, received, or got in, any part of the personal estate of G. H., the testator in the decree [*Or*, order] made in this cause, dated the — day of —, 18 —, named or referred to, nor any money in respect thereof, nor any rents or profits of the said testator's real estate, nor any money in respect thereof.

**492.**  
Affidavit by a  
sole executor  
(or administrator)  
and trustee,  
of non-receipt  
of personal  
estate, or rents  
and profits.

*Formal parts: see ante, No. 12.*

1. I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, say: that I have not, nor have nor has any other persons or person by my order, or for my use, since the — day of —, 18 — (the time to which my accounts thereof marked respectively A. and B., verified by my affidavit filed in this cause, dated the — day of —, 18 —, were made up and rendered), possessed, received, or got in, any part of the personal estate of G. H., the testator [*Or*, intestate] in the decree [*Or*, order] made in this cause, dated the — day of —, 18 —, named or referred to, nor any money in respect thereof, nor any

rents or profits of the said testator's real estate, nor any money in respect thereof.

*Formal parts: see ante, No. 12.*

1. I believe that T. R., the testator in the decree in this cause dated the — day of —, 18 —, named, was at the time of his death possessed of some personal estate, including certain household furniture, but I cannot, as to my knowledge, information, or belief, say what were the particulars or value thereof, save and except that it appears by the probate act that the amount of the personal estate of the said testator was sworn to be under the value of £—. Save and except as aforesaid, I cannot as to my knowledge, remembrance, information, or belief, set forth a full, true, and particular, or any, account or inventory of the personal estate of which the said testator T. R. was possessed of, or entitled to, at the time of his death.

493.  
Negative affidavit by the executor of a deceased executor as to the personal estate of the original testator.

2. And I, speaking positively as to myself, and to the best of my knowledge and belief as to other persons, further say: that save as aforesaid, the said T. R. was not, at the time of his death, possessed of, or entitled to, any debt or sum of money due to him from me, or from E. S., deceased, in the said decree named the executor of the said testator T. R., on any account whatsoever; nor to any leasehold or other personal estate, goods, chattels, or effects, in possession or reversion, absolutely or contingently, or otherwise howsoever.

3. I cannot, as to my knowledge, information, or belief, set forth a true and particular, or any, account of the personal estate of the said testator T. R., which came to the hands of the said R. S., or to the hands of any person or persons by his order, or for his use; or a like or any account of the disbursements, allowances, or payments made by the said R. S., in respect of the funeral expenses, debts, or personal estate of the said testator T. R.

4. And I, speaking positively as to myself, and to the best of my knowledge and belief as to other persons, further say: that no part of the personal estate of the said testator T. R. has come to my hands, or to the hands of any other person or persons by my order, or for my use.

5. There is not to my knowledge, information, or belief, any part of the personal estate of the said testator T. R. now outstanding or undisposed of.

*Formal parts: see ante, No. 52.*

Take notice, that I have this day left at the Chambers of the Master at — the accounts of the defendant A. B. [or

494.  
Notice of having left accounts, and filed affidavit.

*as may be*], in answer to the directions in the decree [*Or, order*] dated —, 18 —, and filed an affidavit of the said defendant [*or as may be*] verifying the said accounts, and answering the said inquiries in the said decree [*Or, order*].

495.  
Surcharge  
against an ac-  
counting party.

In Chancery.

(*Short title of the cause.*)

The surcharge of the plaintiff [*or as may be*] against the defendant A. B. [*or as may be*], under the decree [*Or, order*] in this cause, dated the — day of —, 18 —.

The plaintiff [*or as may be*] seeks to charge the defendant A. B. [*or as may be*] with the several sums of money hereinafter particularised, beyond what the defendant A. B. [*or as may be*] has, by his account marked A. left at the Chambers of the Master at —, on the — day of —, 18 —, pursuant to the said decree [*Or, order*], admitted to have been received by him; that is to say:

(*Set out particulars of the surcharge, in a short and succinct manner; as thus*):

No. of item.	Date when received.	Names of persons from whom received.	Particulars of amount received.	Amount received.
73	1863, Jan. 4	John Thomas .	Half year's rent of Bolder Farm, due Michaelmas, 1863 .	£ s. d. 30 1 9

496.  
Notice thereof.

*Formal parts: see ante, No. 52.*

Take notice, that I have this day left at the Chambers of the Master at — a statement of several sums of money therein and hereinafter particularised, with which the plaintiff [*or as may be*] seeks to charge the defendant A. B. [*or as may be*], beyond what the said defendant [*or as may be*] has, by his account marked A. left in the said Chambers on the — day of —, 18 —, admitted to have received; that is to say:

(*Set out particulars: as in the surcharge.*)

And take notice, that I have this day filed an affidavit of the plaintiff [*or as may be*] in support of such statement.



*Formal parts :* see ante, No. 53.

on the part of the defendant [or as may be], that (Describe the directions required; as thus: the book of account, marked A., referred to in the affidavit of L. B. filed the —, 18 —: being the book in which the said L. B. kept an account of his disbursements in respect of the estate of T. H. B., the testator in this cause: may be taken as *prima facie* evidence of the truth of the payments referred to in the said affidavit [or as may be]; with liberty for any of the parties interested therein to take such objections thereto as they may be advised. And take notice (as in No. 53).

497.  
Notice of motion, for special directions as to the mode of taking or vouching an account.

*Formal parts :*

The proper Taxing Master is requested to tax and settle the accompanying bill of costs, identified by my initials thereon: to assist in making a proper allowance in respect thereof in taking the accounts of the defendant [or as may be], the executor [or as may be] of A. B., the testator [or as may be] in this cause, under the decree [Or, order] therein dated the — day of —, 18 —: in which accounts the said bill of costs is claimed as a payment by the said defendant [or as may be] to his solicitor.

498.  
Request to Taxing Master to moderate bill of costs claimed by an accounting party.

In Chancery.

Between A. B. .... Plaintiff,  
and  
C. D. .... Defendant.

499a.  
Notice T under Order 444, being the first part of Schedule T referred to in that order.

Whereas a suit has been instituted by the above named plaintiff for the foreclosure (or sale) of certain lands, being (insert description of lands) and I have been directed by the decree made in this cause, and dated the — day of —, to enquire whether any person, other than the plaintiff, has any charge, lien, or incumbrance upon the said estate. And whereas it has been made to appear before me that you have each some lien, charge, or incumbrance upon the said estate, and I have therefore caused you each to be made a party to this suit, and appointed the — day of —, at — o'clock in the — noon, for you to appear before me, at my Chambers at —, either in person or by your solicitor, to prove your claims.

Now you are hereby required to take notice: 1st. That if you wish to apply to discharge my order making you a party, or to add to, vary, or set aside the decree, you must do so within fourteen days from the service hereof; and if you fail to do so, you will be bound by the decree, and the further proceedings in this cause as if you were originally made a party to the suit. 2nd. That if you fail to attend at



the time and place appointed, you will be treated as disclaiming all interest in the land in question, and it will be dealt with as if you had no claim thereon, and your claim will be in fact foreclosed.

W. L., Master.

To ———

**498b.**  
Appointment T  
under Order 446,  
being the  
second part of  
Schedule T re-  
ferred to in that  
order.

In Chancery.

Between A. B.....Plaintiff,  
and  
C. D.....Defendant.

Having been directed by the decree in this cause, dated the — day of —, to enquire whether any person other than the plaintiff has any lien, charge, or incumbrance upon the lands in the pleadings mentioned, being (*insert description of land*), I do hereby appoint the — day of — next, at — o'clock, in the — noon, at my Chambers at —, to proceed with the said enquiries.

And you are hereby required to take notice:

That if you fail to attend at the time and place appointed, you will be treated as disclaiming all interest in the land in question, and it will be dealt with as if you had no claim thereon, and your claim will be in fact foreclosed.

W. L., Master.

### *Foreclosure and Redemption Suits.*

**499.**  
Affidavit by a  
mortgagee not  
in possession,  
of amount due  
to him, under a  
decree in a fore-  
closure or re-  
demption suit.

*Formal parts: see ante, No. 12.*

1. There is due to me upon and by virtue of my mortgage security dated the — day of —, 18 —, in the decree made in this cause dated the — day of —, 18 —, mentioned [*or as may be*], the sum of £ — for principal money, and the sum of £ — for interest thereon, computed at the rate of £ — per cent. per annum, from the — day of —, 18 —, to the — day of —, 18 —: making together the sum of £ —: exclusive of my costs of this suit [*or as may be*].—*Show consideration fully, as in No. 457.*

2. And I, speaking positively for myself, and to the best of my knowledge, and belief as to other persons, lastly say, that I have not, nor has nor have any other person or persons by my order, or for my use, received any sum or sums of money for or on account of the hereditaments comprised in my said mortgage security, or any part thereof; nor any security or satisfaction whatsoever for the said principal money, and interest respectively: save and except the said mortgage security [*or as may be*].

*Formal parts: see ante, No. 12.*

1. I have, in the account marked A. now produced and shown to me, according to the best of my knowledge, information, and belief set forth an account of the several matters hereinafter mentioned, which are inquired after by the decree made in this cause dated the — day of —, 18—.

500.  
Affidavit by a mortgagee in possession, verifying his account of principal and interest, repairs, and rents, without costs.

2. I have, in the first part of the said account marked A., set forth a full, true, and particular account of all sums of money which have become due to me for principal money and interest upon and by virtue of my mortgage security dated the — day of —, 18 —, in the said decree mentioned.

3. I have, in the second part of the said account, set forth a full, true, and particular account of all sums of money paid, laid out, and expended by me in necessary repairs and lasting improvements on the hereditaments comprised in my said mortgage security, and the times when, the names of the persons to whom, and the purposes for which the same were made.

4. I have, in the third part of the said account, set forth a full, true, and particular account of all the rents and profits of the said mortgaged hereditaments which have come to my hands, or to the hands of any person or persons by my order, or for my use; and the times when, the names of the persons from whom, on what account, and in respect of what part of the said hereditaments the same have been received, and the times when the same became due; and also a like account of the disbursements, allowances, and payments made by me in respect of the said hereditaments, or the rents and profits thereof, and the times when, the names of the persons to whom, and the purposes for which the same were made.

5. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, lastly say, that save and except as appears in the said account marked A., I have not, nor has nor have any other person or persons by my order, or for my use, received or got in any rents and profits of the said hereditaments, nor any money in respect thereof, or of the principal and interest due to me on my mortgage security as aforesaid; and that the said account does not contain any item of disbursement, payment, or allowance, other than such as has actually been disbursed, paid, or allowed as above stated; and that I have not, nor has nor have any other person or persons by my order, or for my use, received any security or satisfaction whatsoever for the amount due to me on balance of the said account, or any part thereof, save and except the said mortgage security [or as may be].

201.  
Account (A)  
referred to in  
No. 500.

In Chancery.

A.

(Short title of the cause.)

This account marked A. was produced and shown to the plaintiff A. B. [or as may be], and is the account referred to in his affidavit sworn this — day of —, 18 —,

before me (&c.: see ante, No. 15).

FIRST PART.—PRINCIPAL AND INTEREST DUE.

1862, August 8. Amount of principal advanced this day . . . . .	2000 0 0
1866, August 8. Four years' interest thereon at £5 per cent. . . . .	393 6 8
Total of first part	£2,393 6 8

SECOND PART.—EXPENDITURE IN REPAIRS AND LASTING IMPROVEMENTS.

No. of Item.	Date when paid or allowed.	Names of persons to whom paid or allowed.	For what purpose paid or allowed.	Amount paid or allowed.	Interest thereon at £5 per cent., computed to 8 August, 1866.
1	1865 Nov. 4 .	Thomas Carpenter . . .	New barn at farm occupied by John James . . . .	£ s. d. 190 8 11	£ s. d.
			Interest . . . . .	.. .. .	9 1 2
2	1866 March 8 .	William Styles .	Rebuilding part of house let to Keuben Marshall . . . .	140 13 6	
			Interest . . . . .	.. .. .	2 15 0
			Total laid out in repairs, &c. . . . .	£ 330 17 5	11 16 2
			Add Interest . . . . .	11 16 2	
			Total of Second Part	£ 342 13 7	

THIRD PART.—RENTS AND PROFITS.

RECEIPTS.

DISBURSEMENTS.

No. of Item.	Date when received.	Names of persons from whom received.	On what account, and in respect of what part of the estate received, and when due.	Amount received.	No. of Item.	Date when paid or allowed.	Names of persons to whom paid or allowed.	For what purpose paid or allowed.	Amount paid or allowed.
	1864			£ s. d.		1865			£ s. d.
1	Nov. 11	John James	Half year's rent of farm in parish of Ickleton, due Michaelmas last, less income tax .	306 5 0	1	Jan. 1.	Isaac Thompson	One year's rent charge, due Christmas last .	15 0 0
2	" 25	Thomas Jones	One quarter's rent of house at Chesterford, due same time .	10 0 0	2	" 16.	James Francis .	Land Tax, due ditto . .	6 3 9
3	May 1.	John James	Same as No. 1, due Lady Day last . .	306 5 0	3	Jan. 5.	Isaac Thompson	Same as No. 1 due Christmas last . .	15 0 0
4	June 3.	Thomas Jones	Same as No. 2, due Lady Day last . .	10 0 0				Balance . .	576 3 3
				£ 612 10 0					£ 612 10 0

*Formal parts: see ante, No. 53.*  
on the part of the defendant:

1. That, upon payment by him to the plaintiff of the plaintiff's costs of this application: to be taxed: and upon payment by him to the plaintiff, on or before the — day of —, 18 —, of the sums of £ — and £ —, by the Master's Report, dated the —, 18 —, certified to be due to the plaintiff for interest in respect of his mortgage security therein mentioned, and for his costs of this suit, the time for the defendant to redeem the hereditaments comprised in the said mortgage may be enlarged for six calendar months:

2. That upon the aforesaid payments being made, subsequent interest may be computed on the principal money due to the plaintiff on his said security, and his subsequent costs of this suit be taxed (*If so*: and the account of rents directed by the decree dated the — day of —, 18 —, be continued, and the balance dealt with in the manner therein mentioned); and the amount due to the plaintiff

502.  
Notice of motion, to enlarge the time to redeem, in a foreclosure suit.

certified; and a new time and place appointed for the payment thereof to him by the defendant.

3. That, in default of such payment, the defendant may be foreclosed. And take notice (*as in No. 53*).

**503.**  
Notice of motion, by a mortgagee, for a new time to be fixed, where he failed to attend at the time appointed for payment.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff:

1. That the time for the defendant to redeem the hereditaments in the decree dated the — day of —, 18 —, and Master's Report dated the — day of —, 18 —, respectively mentioned, may be enlarged until the — day of —, 18 —.

2. That the said — day of —, 18 —, between the hours of twelve and one of the clock in the afternoon, and the office of the bank of —, at —, may be appointed as the time and place at which the defendant is to pay to the plaintiff the sum of £—, in the said Report mentioned.— And take notice (*as in No. 53*).

**504.**  
Notice of motion, to continue the account, where the mortgagee has received rents between the certificate and the time appointed for payment.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff:

1. That subsequent interest may be computed on the principal money due to the plaintiff on his mortgage security in the decree dated the — day of —, 18 —, and Master's Report dated the — day of —, 18 —, respectively mentioned; and that his subsequent costs of this suit may be taxed.

2. That the account of rents directed to be taken by the said decree may be continued, and the balance dealt with in the manner therein mentioned.

3. That the amount due to the plaintiff for principal, interest, and costs may be certified.

4. That in lieu of the time and amount mentioned in the said Report, a new time may be appointed for the defendant to attend at the office of the bank of —, at —, and pay to the plaintiff the amount which shall be so certified to be due to him.

**505.**  
Power of attorney, to attend and receive money certified to be due by a Report—not on a mortgage.

In Chancery.

(*Title of the cause.*)

I, A. B., of (*residence and addition*), the above named plaintiff [*or as may be*], hereby appoint E. F., of (*residence and addition*), and G. H., of, &c., jointly and severally, my attorneys, and attorney, to attend on the — day of —, 18 — (*Day fixed for payment*), at —, and then and there

in my name, and on my behalf, to receive from the above named defendant C. D. [or as may be], the sum of £—, in the Master's Report made in this cause dated the — day of —, 18 —, mentioned, and appearing thereby to be payable to me at the time and place aforesaid. And on receipt of the said sum, for me, and in my name, or in the names of my said attornies or attorney, to give, sign, seal and deliver a valid release and discharge for the same. And I hereby agree to ratify and confirm whatsoever my said attornies or attorney shall lawfully do, or cause to be done, in or about the premises, by virtue hereof. In witness whereof I have hereunto set my hand and seal this — day of —, 18 —.

A. B. (Seal).

Signed, sealed, and delivered  
by the above named A. B. in  
the presence of;

L. M., of (residence and addition).

In Chancery.

{ Bank of —  
the — day of — 18 —.

506.  
Bank manager's  
certificate of  
non-payment,  
and affidavit  
proving his  
signature.

I, —, manager of the said bank at —, do hereby certify that no sum of money was, on the — day of —, or since, paid into this bank to the joint credit of —, and of the Registrar of the Court of Chancery, or to the credit of the said — alone, by —, or by any one on — behalf.

Witness,

In Chancery.

Between

I, —, of —, in the county of —, make oath and say as follows:

*Firstly.*—That I was present and did see —, of —, Esquire, sign the above certificate, on the — day of — last, and that the name — is of his proper handwriting.

*Secondly.*—That the said — is the manager of the — bank at — aforesaid.

*Thirdly.*—That the name —, thereto subscribed as the party witnessing the same, is of my proper handwriting.

Sworn, &c.

**307.** In Chancery. } —, the — day of —, A. D.  
 Final order of }  
 foreclosure. In Chambers. } 18 —.

Between

Upon the application of the —, and upon hearing read —, It is ordered that the defendant — do stand absolutely debarred and foreclosed of and from all right, title and equity of redemption of, in and to the mortgaged premises in the pleadings mentioned.

Entered, 18 —. }  
 Order Book, No. p. }

**308.** In Chancery. } — the — day of —, in the —  
 Order appoint- }  
 ing a new day In Chambers. } year of the reign of Her Majesty Queen Vic-  
 for payment of }  
 mortgage }  
 money. } toria, and in the year of our Lord 18 —.

Between

Plaintiff,

and

Defendant.

Upon the application of the plaintiff —, and upon hearing read the report of the Master of this Court —, bearing date the — day of —, 18 —, It is ordered that the said defendant — do pay the sum of — by the said report found due to the plaintiff into the — to the joint credit of the said plaintiff and the Registrar of this Court, between the hours of ten o'clock in the forenoon and three o'clock in the afternoon of the — day of —, instead of the time and place mentioned in the said report.

And it is ordered that a copy of this order be served upon the said defendant — at least seven days before the said — day of —.

Entered,

—, Registrar.

**309.** In Chancery. } — the — day of —, A. D.  
 Order for sale }  
 and of foreclo- In Chambers. } 18 —.  
 sure against }  
 parties not }  
 proving claims }  
 in Master's }  
 office. }

Between

Upon the application of the —, and upon hearing read —, It is ordered that the lands and premises in the pleadings mentioned, or a competent part thereof, be sold in pursuance of and in the manner directed by the decree in this cause.

And it is further ordered that the defendants — do stand absolutely debarred and foreclosed of and from all right, title and interest of, in and to the mortgaged premises in the pleadings mentioned.



In Chancery.

(Title of the cause.)

We, A. B., of (residence and addition), the above named plaintiff [or as may be], and E. F., of (&c.: as in the power), severally make oath and say as follows:

509a.  
Affidavit in support, where the mortgagee attended by attorney.

First, I the said A. B. for myself say as follows:

1. The signature "—" to the paper writing marked A., now produced and shown to me, and purporting to be a power of attorney dated the — day of —, 18 —, from me to the deponent E. F., and to G. H., is of my proper handwriting. The said paper writing was executed by me on the — day of —, 18 —.

2. And I, speaking positively for myself, and to the best of my knowledge and belief as to other persons, say, that I have not, nor has nor have any other person or persons by my order, or for my use, received the sum of £—, in the Master's report made in this cause, and dated the — day of —, 18 —, mentioned, and thereby appointed to be paid to me by the above named defendant C. D. [or as may be], on the — day of —, 18 —, or any part thereof; but that the whole of the said sum of £—, remains due to me.

And I the said E. F. for myself say as follows:

3. Under the authority contained in the paper writing marked A., now produced and shown to me, and being the power of attorney hereinbefore mentioned, I, as the attorney of the said plaintiff [or as may be], did on the — day of —, 18 —, personally attend and wait at —, from before the hour of twelve of the clock at noon until after the hour of one of the clock in the afternoon of that day, being the place and time appointed for the purpose of receiving from the above named defendant C. D. [or as may be] the sum of £—, in the said paper writing marked A., and Master's report, respectively mentioned; and that the defendant C. D. did not, nor did any person or persons on his behalf, attend at the place and time aforesaid to pay to the plaintiff A. B., or to me, as his attorney, the said sum of £—, or any part thereof; and I did not in fact then receive, and have not since received, the said sum of £—, or any part thereof.

In Chancery.

(Style of suit.)

Formal parts.

1. That I have not, nor, to the best of my knowledge, information and belief, has any person or persons on my account, or behalf, received the sum of — found due and directed to be paid into the agency office in the city of Hamilton, of the Bank of Commerce [or as may be], to the joint credit of myself and Alexander Grant, Esquire, the

509b.  
Affidavit of non-payment of mortgage money, made payable at a bank.



Registrar of this Honorable Court, between the hours of ten of the clock in the morning and three of the clock in the afternoon of the — day of —, by the Master's report made in this cause bearing date the — day of —, or any part thereof, and I say that the said sum of — is still wholly due and unsatisfied.

### *Partnership Suits.*

**510.**  
Affidavit by  
an accountant,  
of the result of  
his investiga-  
tion of partner-  
ship accounts.

*Formal parts: see ante, No. 12.*

1. In consequence of instructions received by me from Messrs. A. and B., the solicitors in this cause for the plaintiff [or as may be], I have carefully examined all the books and accounts of the plaintiff and defendant as copartners in the business or trade of cotton spinners and manufacturers at R., in the county of L., from the — day of —, 18 —, when the said partnership commenced, until the — day of —, 18 —, when the said partnership was dissolved.

2. I have, in the book marked A., now produced and shown to me, set out the particulars and results of my investigation aforesaid, and the accounts of all the dealings and transactions between the plaintiff and defendant in the said business of cotton spinners and manufacturers directed to be taken by the decree in this cause, dated the — day of —, 18 —.

3. To the best of my knowledge, information, and belief, the said book marked A. contains a true and accurate account of all the said dealings and transactions, and of the result of my said investigation of the said partnership books and accounts.

### *Title, and introduction.*

**511.**  
Master's report  
of the result of  
partnership  
accounts.

I have taken an account of the partnership dealings and transactions between the plaintiff and defendant, from the 12th March, 1855: having regard to the partnership articles, and the agreement of dissolution, in the pleadings mentioned.

On such account there was due from the said partnership to the plaintiff, on the 25th December, 1862, being the date of the dissolution of the said partnership, the sum of £830 in respect of his capital in the said partnership; and which sum of £830 is still due to the plaintiff, together with £105 for interest thereon at the rate of £5 per cent. per annum from the last mentioned day to the date of this certificate; making together £935.

On the same account there was due from the said partnership to the defendant on the said 25th December, 1862, the sum of £4,124 in respect of his capital in the said partner-

ship; and the account of the defendant has been debited with £1,137 in respect of the trade stock of the partnership, and the horses, carts, trucks, and other plant and fixtures belonging to the said partnership, taken by him pursuant to the said agreement of dissolution: whereby the said £4,124 has been reduced to £2,987: which sum of £2,087 is still due to the defendant, together with £379 for interest thereon at the rate aforesaid from the said 25th December, 1862, to the date of this certificate: making together £3,366.

The defendant has, since the dissolution of the said partnership, received in respect of the assets of the said partnership, other than the said £1,137 with which his account has been debited as aforesaid, sums to the amount of £4,687; and he has paid, or is entitled to be allowed, on account thereof, sums to the amount of £3,139: leaving a balance due from him of £1,548 on that account.

The particulars of the above receipts and payments appear in the "Realization Account," at page 2 of the account, marked A., verified by the affidavit of the defendant filed the 5th May, 1865; and which account is to be filed with this certificate: except, that in addition to the sums appearing in such account to have been realized by the defendant, he has been charged with £557 received by him of A. B., in respect of the assets of the said partnership since the said 5th May, 1865; and except that I have not allowed the defendant the sum of £1,000 retained by him on the 28th February, 1865, on account of his capital in the said partnership: reserving to the Court the application of the partnership assets realized by the defendant since the dissolution of the said partnership, and except that I have deducted from the item of £49 on the debit side of the said "Realization Account" the sum of £22: whereby the said item is reduced to £27; and except that, in addition to the disbursements appearing in the said "Realization Account," the defendant has been allowed £400 paid by him into the bank, with the privity of the Accountant-General, to the credit of this cause, on the 28th February, 1865, pursuant to the said decree.

Notwithstanding the foregoing certificate of the result of the said account, the question whether the account of the defendant ought to have been debited with the said £1,137 is, at the request of the plaintiff, reserved for the consideration of the Court.

The assets of the said partnership now remaining outstanding or undisposed of consists of the particulars set forth in the schedule hereto.

The evidence produced, &c.

**512.**  
Notice of motion for leave to institute a suit, or bring an action.

*Management of Property.*

*Formal parts: see ante, No. 53.*

on the part of the plaintiffs [*Or, defendants, A. B. and C. D.: or as may be*], the trustees [*Or, executors*] of the will of E. F., the testator [*Or, the administrators of E. F., the intestate*] in the pleadings named [*or as may be*]:

1. That they may be at liberty to institute and prosecute a suit [*Or, to commence and prosecute an action in one of the superior Courts of Law—Or, to take proceedings in the proper County Court*] against all proper parties, for the purpose of (*State, shortly, the object; as thus*: compelling a foreclosure or sale of the hereditaments comprised in the mortgage security for £500 [*Or, recovering a debt of £500 due*] from G. H., and now forming part of the outstanding estate of the said E. F.).

That the applicants may be indemnified, in such manner as the Judge shall direct, against any costs to be incurred by them in such suit [*Or, action—Or, proceedings*], out of the estate of the said E. F. And take notice (*as in No. 53*).

**513.**  
Notice of motion for leave to defend a suit in equity.

*Commence as in No. 512.*

1. That they may be at liberty to defend the suit commenced against them in this Court, by A. B. and C. D., the executors of L. M. [*or as may be*], for the purpose of [*State, shortly, what; as thus*: compelling a foreclosure or sale of the hereditaments comprised in the mortgage security for £500 to the said L. M.: the equity of redemption whereof forms part of the estate of the said E. F.); and the short title of which suit is *Brown v. Jones*.

2. That the applicants may be indemnified (*Conclude as in No. 512, ante*).

**514.**  
Notice of motion for leave to defend an action or other proceeding.

*Commence as in No. 512.*

1. That they may be at liberty to defend the suit commenced against them by O. P., in Her Majesty's Court of Queen's Bench [*Or, in the County Court of ———, or as may be*], to recover the sum of £500 alleged to be due to him from the estate of the said E. F. [*or as may be*].

2. That the applicants may be indemnified (*Conclude as in No. 512, ante*).

**515.**  
Notice of motion for leave to carry on testator's business.

*Commence as in No. 512.*

That the applicants may be at liberty to carry on the testator's business of a ———, at ———, until the sale

thereof, or until the — day of — next, and to use and employ for that purpose any part of the sum of £—, now in their hands, and forming part of the testator's personal estate.

*Commence as in No. 512.*

That the applicants may be at liberty, out of the assets of the said E. F. in their hands, to pay the debts of the said E. F. specified in the schedule to the Master's report, dated the —, 18 — [Or, in the exhibit marked A. to the affidavit of the applicants filed —, 18 —, or as may be].

516.  
Notice of motion for leave to pay debts.

*Commence as in No. 512.*

That the applicants may be at liberty to compromise the suit [Or, action] of "Brown v. Jones," instituted by [Or, against] them, in this Court—Or, in Her Majesty's Court of Queen's Bench [or as may be] against [Or, by (State whom), ], for (State, shortly, the object of the suit, or action)—Or, the debt due by [Or, to] G. H. to [Or, from] the estate of the said E. F.—upon the terms following, namely: (State them).

517.  
Notice of motion for leave to compromise a suit, action, or claim.

*Commence as in No. 512.*

That the applicants may be at liberty to lay out sums of money not exceeding the respective sums set forth in the second column of the schedule hereto, in effecting the repairs [Or, works of drainage] and improvements specified in the affidavit of A. B., filed the —, 18 —, and in the exhibits thereto, to those portions of the estates of the testator E. F., situate at —, in the county of —, which are now in the occupation of the respective persons whose names are set forth in the first column of the said schedule; and may be allowed what they shall so lay out on passing their accounts in this cause.

518.  
Notice of motion for leave to execute repairs, or drainage works.

The Schedule above referred to.

Names of occupiers.	Estimated amount to be laid out.		
	£	s.	d.
Peter Brice.....	200	8	6
John Witham.....	80	4	11
Benjamin Scholefield.....	127	11	3
	407	4	8

519.  
Notice of motion for leave to obtain a renewal of a lease.

*Commence as in No. 512.*

That the applicants may be at liberty to accept from G. H., a renewal for the term of — years, from — next, at the annual rent of £—, of the lease dated the —, 18—, of the — farm at B., in the county of C., now forming part of the outstanding estate of the said E. F.: such lease to be granted to the applicants as executors of the will of the said E. F.

520.  
Notice of motion to approve of agreement to grant a lease.

*Commence as in No. 512.*

That the conditional contract dated the — day of —, 18—, entered into by applicants [*Or, by G. H., as the agent for, and on behalf of, the applicants—or as may be*], to grant to L. M. a lease of the — farm at B., in the county of C. [*or as may be*], part of the trust estate of the testator E. F., on the terms and conditions therein mentioned, may be directed to be carried into effect: such lease to be approved by the Judge [*or as may be*].

521.  
Affidavit in support.

*In Chancery.*

*(Title of the cause.)*

We, G. H., of (*residence and addition*), and J. K., of, &c., severally make oath and say as follows:

First, I, the said G. H., for myself say, as follows:

1. I have, for — years last past, carried on the business of a surveyor, auctioneer, and land and estate agent at —, in the county of —; and I am well acquainted with the value, management, and letting of land and house property, in the neighborhood of the farm hereinafter mentioned.

2. I am well acquainted with the farm and premises described or referred to in the agreement dated the — day of —, 18—, made between (*describe the parties*), and now produced and shown to me, and marked A.

3. I was recently employed by the plaintiffs [*or as may be*] to obtain a tenant for the said farm and premises, and to negotiate the letting thereof.

4. Having well considered the value of the said farm and premises, I am of opinion that the rent of £—, in the said agreement mentioned, is the best rent that can reasonably be obtained for the said premises; and that the terms and conditions of the said agreement in other respects (*If a draft lease has been approved, add: and of the draft lease referred to in the said agreement, and now also produced and shown to me, and marked B.*), are fair and reasonable, and such as are usually inserted in leases of property of the same nature; and in my judgment and opinion it will be

beneficial to the estate of the testator E. F. [or as may be] that the said agreement should be carried into effect.

5. I have made inquiries as to the position and means of the said L. M. (*tenant*), and as to his ability to pay the rent, and perform the covenants and agreements on his part, contained in the said agreement, and to be contained in the lease to be granted in pursuance thereof. From information derived by me in prosecuting such inquiries, I am of opinion that the said L. M. is fully able to pay the said rent and perform the said covenants and agreements; and that he is in all respects a desirable tenant for the said premises.

And I, the said J. K., for myself say, that the signature "—," set and subscribed to the agreement dated the — day of —, 18 —, now produced and shown to me, and marked A., is of the proper writing of the said L. M., one of the parties thereto: as I know from having seen him subscribe such signature thereto.

#### *Appointment of New Trustees.*

*Formal parts: see ante, No. 12.*

1. *Show deponent's personal knowledge of the proposed trustees; as thus:* I have, for — years last past, known, and been well acquainted with E. F., of (*residence and addition*), and G. H., of (*residence and addition*), the persons proposed to be appointed new trustees of the will of A. B., late of (*residence and addition*), deceased, the testator in the decree [*Or, order*] in this cause [*Or, matter*] dated the — day of —, 18 —, named [*Or, of the indenture of settlement, dated the — day of —, 18 —, made on the marriage of A. B. with C. D., in the decree, &c., mentioned—or as may be*].

539.  
Affidavit of  
eligibility of  
proposed trustees.

2. *Show the position in life of the proposed trustees, and their eligibility; as thus:* The said E. F. has, for — years last past, carried on business as a banker at —, in the (county) of —. The said G. H., has, for — years last past, carried on business as a wine-merchant at —, in the (county) of —. During my aforesaid acquaintance with them I have had many opportunities of forming an opinion as to their habits of business and integrity. The said E. F. and G. H. respectively are persons in good credit in the neighborhood in which they respectively carry on business as aforesaid, and are both men of business habits, and of strict honor and integrity.

3. In my judgment and opinion the said E. F. and G. H. are fit, proper, and eligible persons to be appointed new trustees of the said will [*Or, indenture of settlement—or as may be*].

In Chancery.

(Short title.)

523.  
Consent to act,  
of proposed  
trustees.

We, the undersigned E. F., of (*residence and addition*), and G. H., of (*residence and addition*), do hereby testify our consent to accept the office of trustees, and to act in the trusts, of the will of A. B., late of (*&c. : as in No. 522, ante*): in case the Court of Chancery shall think fit to appoint us to that office. Dated this — day of —, 18 —.

E. F.  
G. H.

Signed by the said E. F. }  
and G. H. in the presence of, }  
J. K.

524.  
Affidavit, ver-  
ifying the signa-  
tures thereto.

Formal parts : see ante, No. 12.

1. The signatures " ———," and " ———," respectively set and subscribed to the paper writing marked A., hereunto annexed [*Or, now produced and shown to me, purporting to be the consent, dated the — day of —, 18 —, of E. F. and G. H., to accept the office of trustees of the will of A. B. [or as may be], are of the respective proper handwriting of the said E. F. and G. H., in such paper writing respectively named and described : as I know from having seen, them respectively sign the said paper writing.*]

525.  
Notice to the  
defendant that  
he may conduct  
sale under de-  
cree, referred to  
in Order 490,  
being Schedule  
R mentioned in  
that order.

In Chancery.

(Short title.)

To ———, defendant.

Take notice, that the plaintiff elects that the sale of the mortgaged premises be conducted by you instead of by the plaintiff, and you are at liberty to withdraw the deposit made by you in this cause for the purpose of such sale.

526.  
Consent of an  
incumbrancer,  
or doweress, to  
estate being  
sold, free from  
his incumbrance  
or her dower.

In Chancery.

(Short title.)

I, the undersigned C. D., of (*residence and addition*), do hereby consent that the real estate of A. B., the testator in the decree [*Or, order*] in this cause dated the — day of —, 18 —, named [*or as may be*], shall be sold, with the approbation of the Master at ———, under the provisions of the said decree [*Or, order*], free from my mortgage thereon, for the sum of £500 and interest, created by an indenture dated the — day of —, 18 — [*Or, free from my dower*]. And I agree to join in such sale of the said estate, and in the conveyance thereof to the purchaser; and to pro-



duce, whenever required, for the purpose of such sale, such of the title deeds and writings relating to the said estate as are in my possession or power. Dated this—day of—, 18—.

C. D.

Witness to the signature }  
of the said C. D., }  
G. H., of (residence and addition).

In Chancery.

(Short title of cause.)

527.  
Advertisement  
for sale.

Pursuant to the decree and final order for sale made in this cause, and bearing date respectively the—day of of—, and the—day of—, A. D. 18—, there will be sold, with the approbation—, Esquire, Master of this Court at—, by—, Auctioneer, at his Auction Rooms in the town of— (Or, at the— hotel in the town of— as the case may be), at the hour of—, on the— day of—, the following lands and premises (describing them in a full and clear manner, and giving such a fair description of them as the owner would).

The property will be put up (if so) at the upset price of (Or, there will be a reserved bid—as the case may be). (If it is to be put up in parcels, describe them as No. 1, 2, 3, &c.; and say: It will be put up in the following parcels, viz., and at the upset price (if so) respectively of \$—, \$—, \$—). (Insert terms of payment, stating how much is to be paid in cash; when the balance is to be paid; and whether in cash or to be secured by mortgage, and at what rate of interest. State fully every condition.)

The purchaser will prepare the conveyance at his own expense. The vendor will prepare and register the mortgage at his own expense (State precisely the terms as to the conveyances).

In all other respects the terms and conditions of sale will be the standing conditions of the Court of Chancery.

Further particulars can be had from—.

Dated at— this— day of—, A. D. 18—.

A. B., Master.

A. B. } I direct that the advertisement be published once a week (Or, as may be found beneficial and proper) in the— news-  
v. } paper for the four weeks immediately preceding the sale; that—posters be put up  
C. D. }  
1st Jan. 18— } in conspicuous places in the town of—; that— be put

528.  
Master's directions as to publication of advertisement.



up in the immediate neighborhood of the property, and — in the village of — (*making such directions as to publicity as a prudent owner desiring to sell his property to the best advantage would wish*). And I fix the auctioneer's fees at not more than \$ —.

(Style of Cause.)

529.  
Affidavit verifying the description of the property, as set out in the advertisement.

Formal parts.

1. That I am well acquainted with lot No. —, in the — concession of the township of —, in the county of —, being the premises ordered to be sold in this cause.
2. That the said lot consists of two hundred acres of land, of which one hundred acres are cleared, and the remainder well timbered with beech and maple; the land cleared is of a light loam, in a good state of cultivation (*give full particulars as to character of soil, &c.*).
3. The said lot is situate about seventeen miles from the town of —, readily accessible thereto by good roads, which said town of — offers a good market for the sale of produce.
4. The said lot, in addition to being well timbered, is also well watered, and has erected thereon farm buildings consisting of (*fully describe them, saying whether in brick or wood, and how long erected*).
5. There is a good orchard consisting of — acres of land, well stocked with excellent fruit trees.
6. The lot is well fenced.
7. There is a prior mortgage on the property (*if so*) for the sum of — pounds, payable to (*state particulars*).
8. The lot is now in the occupation of (*state particulars of tenancy*).

Sworn, &c.

530a.  
Affidavit as to the mode of lotting.

Formal parts : see ante, No. 12.

1. I have for — years last past been engaged in the business of an auctioneer and land and estate agent; and for — years last past I have carried on such business at — aforesaid; and I have had considerable experience in the mode of lotting and selling land and house property.
2. I know and am well acquainted with the estates situate at —, in the county of —, proposed to be sold in this cause, and described in the paper writing marked A., now produced and shown to me.
3. On the — day of —, 18 —, I went over the said estates, and made a careful survey thereof, for the purpose

of forming an opinion as to the best mode of dividing and allotting the said estates for the said sale thereof.

4. The said paper writing marked A., sets forth a true and correct description of the said estates, to the best of my knowledge and belief, and the mode in which, in my judgment and opinion, it will be desirable to lot and divide the same for the purposes of the said sale.

5. In my judgment and belief the said estates will be sold to the most advantage, and will be likely to realise the best prices, if the scheme of division and allotment set forth in the said paper writing marked A. be adopted.

*Formal parts: see ante, No. 12.*

1. I have for — years last past known and been well acquainted with L. M., of (*residence and addition*), auctioneer and land and estate agent; and during all that time the said L. M. has carried on business as an auctioneer and land and estate agent at — aforesaid [*or as may be*].

530.  
Affidavit of  
fitness of pro-  
posed auc-  
tioneer.

2. I have on several occasions employed the said L. M. as an auctioneer and land valuer; and am also acquainted with several persons who are in the habit of employing him in that capacity; and he has invariably given entire satisfaction to me, and I believe also to such other persons.

3. The said L. M. is a person of respectability and integrity, and of considerable ability as an auctioneer and land and estate agent; and in my judgment he is a fit and proper person to be employed to sell the estates situate at —, in the county of —, proposed to be sold in this cause [*Or, matter*].

*Formal parts: see ante, No. 12.*

1. I have carefully examined and surveyed the estates particularly described in the printed particulars of sale marked A., now produced and shown to me, in order to form an opinion as to the value thereof, and the amounts which the said estates ought to realise on the sale thereof advertised to take place on the — day of —, 18 —.

531.  
Affidavit as to  
the amount to  
be fixed for the  
reserved bid-  
ding.

2. I have, in the paper writing marked B., now produced and shown to me, set forth in the first column the number of the lots into which the said estates have been divided for the purposes of the said sale; and in the second column, opposite the numbers of the said lots respectively, the full values of the said lots respectively; and in the third column, opposite the said numbers respectively, the amounts which, in my judgment and belief, should be fixed as the reserved biddings for the said lots respectively on the said sale.

532.  
Valuation (B)  
referred to in  
No. 531.

In Chancery.

B.

(Short title.)

This paper writing marked B. was produced and shown to L. M., and is the paper writing, so marked, referred to in his affidavit sworn in this cause [Or, matter] on the — day of —, 18 —, before me:

E. F., a Commissioner, &c. [or as may be: see ante, No. 15].

No. of Lot.	Value.	Proposed reserved bidding.
1	£ 2000	£ 1850
2	500	450

L. M.

533.  
Notice of mo-  
tion for leave to  
bid at the sale.

Formal parts: see ante, No. 53.

on the part of the plaintiff [Or, of the defendant—Or, of X. Y.: who has liberty to attend the proceedings—or as may be], that he may be at liberty to bid at the sale directed by the decree [Or, order] dated the — day of —, 18 —, of the estates therein mentioned. And take notice (as in No. 53).

533a.  
Conditions of  
sale referred to  
in Order 379,  
being Schedule  
P mentioned in  
that order.

1. No person shall advance less than \$10 at any bidding under \$500, nor less than \$20 at any bidding over \$500, and no person shall retract his bidding.

2. The highest bidder shall be the purchaser; and if any dispute arise as to the last or highest bidder, the property shall be put up at a former bidding.

3. The parties to the suit, with the exception of the vendor, (and, naming any parties, trustees, agents, or others, in a fiduciary situation,) are to be at liberty to bid.

4. The purchaser shall, at the time of sale, pay down a deposit, in the proportion of \$10 for every \$100 of his purchase money, to the vendor or his solicitor; and shall pay the remainder of the purchase money, —, on the — day of — next; and upon such payment, the purchaser shall be entitled to the conveyance, and to be let into possession; the purchaser, at the time of sale, to sign an agreement for the completion of the purchase.

5. The purchaser shall have the conveyance prepared at his own expense, and tender the same for execution.

6. If the purchaser fails to comply with the conditions aforesaid, or any of them, the deposit and all other payments made thereon, shall be forfeited, and the premises may be

re-sold  
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re-sold; and the deficiency, if any, by such re-sale, together with all charges attending the same, or occasioned by the defaulter, are to be made good by the defaulter.

Mr. L. M., the person appointed to sell the estates advertised for sale in this cause [*Or, matter*], is requested to attend to the following directions:—

234.  
Directions to auctioneer, as to the conduct of a sale in several lots, where there are reserved bidding.

R. M. Master.

The sale is to be conducted in accordance with the accompanying printed particulars and conditions. This print is to be carefully preserved, and returned to my Chambers; with the affidavit of the result of the sale.

The sale is to be subject to the reserved bidding specified in the accompanying note. This note is not to be opened till the time of sale. The reserved bids are not to be divulged to any person, either at, or at any time after, the sale.

In case there is no bidding for any lot equal to, or higher than, the reserved bid, the person appointed to sell is to declare that such lot is not sold, but has been bought in on account of the persons interested in, or entitled to, the property.

The accompanying bidding-paper is to be carefully filled up. The highest sum bid, whether the lot is sold or not, is to be inserted in the second column. In the event of no person bidding for any lot, the words "no bidding" are to be written in the second column, opposite the number of such lot. When, although there is a bidding, the lot is not sold, the words "not sold" are to be written in the third column. The purchasers are to sign their names in the third column, and any person who purchases as agent for another must so sign: otherwise he must be treated as the purchaser. The purchaser's address and quality are to be fully stated in the fourth column.

When the purchaser's signature is not plain, or initials are used, a note must be put at the foot of the bidding-paper, as follows: "The name of the purchaser of lot — is —."

235.  
Note of the reserved biddings.

In Chancery.

(*Style of suit.*)

The reserved biddings fixed by the Master at —, to which the sale in this cause [*Or, matter*] is to be subject, are as follows, viz:—

For Lot 1	£800
For Lot 2	£250

For Lot 3	£300
For Lot 4	£700
For Lot 5	£650
For Lot 6	£710

**536.**  
Conditions of  
sale, and con-  
tract by pur-  
chaser.

In Chancery.

Between

*The Conditions of Sale are those in No. 553a, ante, to clause 6 inclusive; then add as follows:—*

I agree to purchase the property or lot — mentioned in the annexed particulars for the sum of —, and upon the terms set forth in the above conditions.

Dated this — day of —, A. D. 18 —.

Witness:

**537.**  
Affidavit of  
auctioneer as  
to result of sale.

I, A. B., of the — of —, in the county of —, the auctioneer appointed by the Master of this Honorable Court at —, to sell the lands and premises comprised in the particulars hereinafter referred to, make oath and say:

1. That I did, according to the appointment of the said Master, at the time and place, in the lots, and subject to the conditions specified in the particulars and conditions of sale hereunto annexed, marked respectively A. and B., &c., offer for sale by public auction, the lands and premises described in the said particulars, and that the results of such sale are as appear from the several signed contracts appearing at the foot of the said conditions of sale marked respectively B. C., &c.

2. That the sums set forth in the said several contracts are the highest sums bid for the respective lots therein respectively mentioned, and that — of —, and — of —, being the persons whose names are respectively subscribed to the said several contracts, were respectively declared by me to be the highest bidders for, and became the purchasers of, the lots respectively mentioned in the said several contracts, at the prices or sums of — and — respectively, being the prices or sums in the said several contracts respectively mentioned.

3. That the several lots numbered respectively one, two, &c., in the said particulars, were not sold, no person having bid a sum higher than or equal to the reserved biddings fixed for the same respectively by the said Master.

4. That no person bid any sum whatever for either of the lots numbered respectively four and five, in the said particulars.

5. That the said sale was conducted by me in a fair, open and proper manner, and according to the best of my skill and judgment.

Sworn, &c.

1. That in pursuance of the direction of the Master in ordinary of this Court (*Or, of the Master of this Court at —*) who settled the advertisement and particulars and conditions of sale for the sale of the lands mentioned or referred in the decree [*Or, order*] made in this cause, I caused such advertisement to be published in the (*naming the newspaper or newspapers*) once in each week for the four weeks immediately preceding the said sale [*or as the case may be*].

538.  
Affidavit of  
insertion of  
advertisements  
and publication  
of posters.

2. That in pursuance of the said direction I caused bills of the said sale to be published in different parts of the township (*town or city*) of —, and the adjacent country and villages [*or as the case may be*].

3. That twenty-five of the said bills or posters were published and distributed for four weeks immediately preceding the said sale in taverns adjacent to the said land, and fifty others of the said bills and posters were published and posted in conspicuous public places in different parts of the said township (*town or city*) of —, and the adjacent country and villages [*or as the case may be*], and that twenty-five others of the said bills or posters were distributed to the auctioneer and the solicitors of the various parties interested in this cause.

Sworn, &c.

In Chancery.

(*Style of cause.*)

*Formal parts.*

1. The annexed contract of sale, attached to the conditions and advertisement of sale in this cause, and marked A., was signed in my presence by B. C., of the township of —, in the county of —, Yeoman (*if signed by an agent, say by D. E. as agent for B. C., of, &c.*); that the signature "B. C." [*or as the case may be*], set and subscribed to the said contract, is the proper handwriting of the said "B.

539.  
Affidavit of  
execution of  
contract by  
purchaser.

C.," and that the signature "F. G.," set and subscribed as a witness thereto, is my own proper handwriting.

Sworn, &c.

In Chancery.

**540.**  
Report on sale,  
referred to in  
Order 387, being  
Schedule Q  
mentioned in  
that order.

Between A. B .....Plaintiff,  
and  
C. D..... Defendant.

Pursuant to the decree [*Or, order*] of this Honorable Court, bearing date the — day of —, and made in this cause, I have, under the General orders of this Court, in the presence of [*Or, after notice to*] all parties concerned, settled an advertisement and particulars and conditions of sale for the sale of the lands mentioned or referred to in the said decree [*Or, order*], and such advertisement having, according to my directions, been published in the (*naming the newspaper or newspapers*), once in each week for the — weeks immediately preceding the said sale [*or as the case may be*], and bills of the said sale having been also as directed by me, published in different parts of the township (*town or city*) of —, and the adjacent country and villages [*or as the case may be*], the said lands were offered for sale by public auction, according to my appointment, on the — day of —, by me [*or by Mr. —, of —, appointed by me for that purpose, auctioneer*], and such sale was conducted in fair, open, and proper manner, when —, of —, was declared the highest bidder for, and became the purchaser of the same, at the price or sum of \$ —, payable as follows (*Set out shortly the condition of sale as to payment of the purchase money*).

All which having been proved to my satisfaction by proper and sufficient evidence, I humbly certify to this Honorable Court.

Dated —.

*Formal parts, as in No. 53.*

**541.**  
Notice of motion, to compel payment in of the purchase money, and for a re-sale on default.

1. On the part of the plaintiff (*or other persons having the conduct of the sale*), that A. B., who, by the report of the Master at —, dated —, was declared to be the purchaser of the land and premises directed to be sold by the decree dated —, may be ordered — on or before the —, 18 —, or subsequently within seven days after service, to pay into the bank, to the credit of this cause [*or as may be: according to the decree or order of sale*], the sum of £ —: being the purchase money for the said premises:

*Or, being the balance of the purchase money for the*



said premises, after deducting £—, paid by him as a deposit:

*If so*: making together the sum of £—:

*If so*: together with interest thereon at £— per cent, per annum from the —, 18 — (*as in the conditions or contract of sale*), until payment—the amount to be verified by affidavit.

2. That, upon such payment being made, the said A. B. may be let into possession of the said premises, or into the receipt of the rents and profits thereof, from the —, 18—; and that all proper directions for the conveyance or assurance of the said premises to him may be given.

3. That the said £— may not be paid out without notice to the said A. B.

4. That the said A. B. may be ordered to pay to the applicant his costs of this application.

*Add, if desired*: 5. That in default of such payment being made by the said A. B. within the time aforesaid, the premises whereof he has been allowed the purchaser, as aforesaid, may be re-sold pursuant to the conditions of sale under which he purchased the same; without prejudice to his liability to make good any deficiency in the price which may be obtained upon such re-sale, and of all costs and expenses occasioned by his default. And take notice (*as in No. 53*).

*Proceed as in No. 541, ante, to may be ordered; and continue thus*:

on or before the —, 18 —, or subsequently within seven days after service, to pay into the bank, to the credit of this cause [*or as may be*], the sum of £—, being the difference between the sum of £—, the price at which the said A. B. was allowed the purchaser as aforesaid, and the sum of £— for which the said premises have been re-sold in pursuance of the order dated the —, 18 —, on his default; and that the said A. B. may be ordered to pay the applicant and the defendants [*or as may be*] all costs and expenses of and occasioned by such default, and of this application: to be taxed by the Master at ——. And take notice (*as in No. 53*).

542.  
Notice of motion to compel payment by former purchaser of deficiency on a re-sale, after his default.

*Formal parts*: see *ante*, No. 53.  
on the part of A. B.: who (*Describe the purchaser as in No. 541, ante*):

1. That the applicant may be discharged from being such purchaser.

2. That his costs, charges, and expenses occasioned by his bidding for [*Or, by his entering into the conditional*

543.  
Notice of motion by purchaser, to be discharged from his purchase.



contract dated the — day of —, 18 —, in the said order of the — day of —, 18 —, mentioned], and being allowed the purchaser of the said premises, and of and incident to this application, may be taxed.

3. That his said costs, charges, and expenses

*If so:* and also the sum of £—, paid by him as a deposit on his purchase money, may be paid to him out of the £— cash in the bank on the credit of this cause [*or as may be*]:

*Or,* may be paid to him by the plaintiff C. D.: without prejudice to the question by whom, or out of what fund, the same should be ultimately borne. And take notice (*as in No. 53*).

544.  
Notice of motion by vendor, to discharge purchaser.

*Proceed as in No. 541, ante, to end of description of the purchaser; and continue thus:* that the said A. B. may be discharged from being such purchaser, on the terms following: (*State them*).

545.  
Notice of motion to substitute a purchaser

*Formal parts: see ante, No. 53.*  
on the part of A. B.: who (*Describe the original purchaser, as in No. 541, ante; and continue thus:*) and of C. D., of (*residence and addition*), that the said C. D. may, on or before the —, 18 — (*Add particulars of purchase money, and interest to be paid into Court, as in No. 541, ante*); and that thereupon the said C. D. may be substituted for the said A. B. as the purchaser of the said premises; and be let into possession of the said premises, or into the receipts of the rents and profits thereof, from the — day of —; and that all proper parties may be ordered to join in and execute a proper conveyance or assurance of the premises to the applicant, or as he shall direct: such conveyance or assurance to be settled by the Master at — in case the parties differ.

546.  
Affidavit in support, before report on sale has become confirmed.

In Chancery.

(*Title of the cause.*)

We, A. B., of (*residence and addition*), and C. D., of (*residence and addition*), severally make oath and say as follows:

1. We have agreed that, if approved by this Honorable Court, the deponent C. D. shall be substituted for the deponent A. B., as the purchaser, at the price of £—, of the hereditaments comprised in lot —, part of the estates sold under the decree [*Or, order*] dated the — day of —, 18 —, in this cause, and for which the deponent A. B. was declared to be the purchaser at the sum of £—, at the sale thereof at —, on the — of —, 18 —.

2. And we, each speaking positively as to himself, and to the best of his knowledge and belief as to other persons, lastly say, that save as aforesaid, there is no agreement, underbargain, contract, or understanding whatsoever by or between us, or by or between any other person or persons by our order, or on our behalf, respectively, for or in respect of the said premises so purchased by the deponent A. B. as aforesaid.

*Commence as in No. 546.*

1. We have agreed that, if approved by this Honorable Court, the deponent C. D. shall be substituted for the deponent A. B., as the purchaser of the (hereditaments comprised in lot —, part of the) estates sold under the decree [Or, order] dated the — day of —, 18 —, in this cause; and whereof the deponent A. B. is allowed the purchaser by the report on sale, dated the — day of —, 18 —.

547.  
Affidavit in support of motion, to substitute a purchaser after report on sale has become confirmed.

2. And we, each speaking positively as to himself, and to the best of his knowledge and belief as to other persons, lastly say, that no agreement, underbargain, contract, or understanding whatsoever by or between us, or by or between any other person or persons by our order, or on our behalf, respectively, for or in respect of the said premises, was made, entered into, or come to upon or at any time prior to the — day of —, 18 — (*day when report became confirmed*):

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that the biddings at the sale, on the — day of —, 18 —, of the lands and premises directed to be sold by the decree [Or, order] dated the — day of —, 18 —, may be opened, and that A. B., the highest bidder at the said sale, may be bound by his highest bidding thereat: which amounted to the sum of £—; or that the said A. B. may be discharged from being the purchaser of the said estate, and the said estate be directed to be re-sold. And take notice (*as in No. 53*).

548.  
Notice of motion to open biddings, or for a re-sale.

# INFANTS.

## 1. Appointment and removal of guardians.

In Chancery.

(*Title of the cause or matter.*)

*Proceed as in No. 53; and continue thus :*) on the part of the plaintiff [Or, defendant—Or, above-named] A. B., an

549.  
Notice of motion for the appointment of a guardian of the person, where a suit is pending.

infant, by C. D., of (*residence and addition*), his next friend, that the said C. D. (*State degree of relationship, if any, to the infant; as thus: the maternal uncle of the said infant*), or some other proper person, may be appointed the guardian of the person of the said A. B. during his minority, or until further order—*And, if desired, a direction for payment of the costs of the application: see post, No. 551.*

**550.**  
Notice of motion for the appointment of a guardian of the person, where no suit is pending.

#### In Chancery.

In the matter of A. B., an infant, by C. D., his next friend.

*Proceed as in No. 549; and continue thus:* on the part of the above named infant A. B., by the above named C. D., of (*Continue as in No. 549 to the end*).

**551.**  
The like of the person and estate—or estate only.

#### In Chancery.

In the matter of A. B., an infant, by C. D., his next friend.

*Proceed as in No. 549; and continue thus:* on the part of the above named infant A. B., by the above named C. D., of (*residence and addition*), his next friend:

1. That the said C. D. (*State degree of relationship, if any, to the infant; as thus: the brother of the said infant*), or some other proper person, may—*If so:* upon giving security—be appointed the guardian of the person and estate—*Or,* the guardian of the estate—of the said A. B., during his minority, or until further order

*If the guardian is to pass accounts, add:* 2. And that the said C. D., or other such guardian, may from time to time pass his accounts, and pay the balances which shall be certified to be due from him into the bank to the credit of this matter; and that such balances may be laid out in bank 3l. per cent. annuities; and the interest to accrue thereon, and all accumulations of interest, be laid out in like manner [*or as may be*].

*If any provision as to costs is necessary, add:* 3. And that the costs of this application may be taxed as between solicitor and client; and that the said C. D., or other such guardian, may retain and pay the same out of any monies of the said infant which may come to his hands, and be allowed the same on passing his said accounts [*or as may be*].

**552.**  
Affidavit in support of application to appoint a guardian.

#### In Chancery.

(*Title of the cause or matter.*)

We, C. D., of (*residence and addition*), and W. R., of, &c., severally make oath and say as follows:—

And first I, the said C. D., for myself, say as follows :

1. I am the person proposed to be appointed the guardian of the above named infant A. B. [*Or, A. B., the infant named in the notice of motion —, in this matter, dated the — day of —, 18 —, or as may be.*]

2. *Show infant's age : as thus :* The said A. B. is now of the age of — years, and upwards. He is "A., son of C. and L. B."

3. *Show nature and amount of infant's fortune ; as thus :* The said A. B., is absolutely entitled, under the will of his maternal uncle E. F., late of (*residence and addition*), deceased, to the following properties ; namely :—

(1) A freehold estate situate at G., in the county of H., containing about 80 acres, and held by L. M. on lease at £120 a year.

(2) £200 Dominion Stock standing in the names of R. S. and T. W., the trustees of the will of the said E. F.

(3) £50 cash in the hands of the said R. S. and T. W., arisen from dividends on the said stock.

The said A. B. is also entitled, under the said will, in remainder expectant on the death of N. F., to a life interest in Dominion Stock, also standing in the names of the said R. S. and T. W., the trustees thereof.

4. *Show what relations the infant has ; as thus :* The only relations of the said A. B. now living are :—(1) This deponent, his maternal uncle ; (2) S. H., wife of T. H., of (*residence and addition*), the half-sister of the said A. B. ; and (3) R. D. V., the half-brother of the said A. B. : who is a captain in Her Majesty's army, and is now stationed with his regiment at Bombay, in the East Indies.

5. *Show where the infant is now residing, and under whose care ; as thus :* The said A. B. was, at the time of the death of his father C. B., which happened on the —, 18 —, and is now residing, as a scholar, at — college, —.

6. *State willingness to act as guardian ; as thus :* I am willing to act as the guardian of the person and estate [*or as may be*] of the said A. B., during his minority, in case this Honorable Court shall think fit to appoint me to that office.

7. *Show means of knowledge.*

And I, the said W. R., for myself, say as follows :

8. *Show fitness of proposed guardian ; as thus :* I know, and have for — years last past been well acquainted with, the deponent C. D. The said C. D. is married, and has three children ; namely : a son of the age of — years ; and two daughters of the respective ages of — and — years. The said C. D. resides with his wife and children at (*State where*). In my judgment and belief the said C. D. is a fit and proper person to be appointed the guardian of the per-

son and estate [*or as may be*] of his nephew the said infant A. B.: for the following reasons (*State them*).

Sworn, &c.

553.  
Consent of  
guardian to  
act.

In Chancery.

(*Short title.*)

I, the undersigned C. D., of (*residence and addition*), do hereby testify my consent to accept the office of guardian of the person and estate [*or as may be*], of the above named infant A. B. [*or as may be*], in case the Court of Chancery shall think fit to appoint me to that office. Dated this — day of —, 18 —.

C. D.

Signed by the said C. D. }  
in the presence of }  
J. K.

554.  
Recognizance  
by a guardian of  
the estate, and  
his sureties,  
after an order  
appointing him  
subject to his  
giving security.

*Proceed as in ordinary case of recognizance; then recite the order appointing the guardian, subject to his giving security; and continue thus:*

And whereas the Master at — [Or, Vice-Chancellor —], hath approved of the above bounden C. D. and E. F. as sureties for the said L. M.; and hath also approved of the above written recognizance, with the under written condition, as a proper security to be entered into by the said L. M., C. D. and E. F., pursuant to the said order, and the Consolidated General Orders of the said Court in that behalf; and in testimony of such approbation, the said Master [Or, the said Judge], hath signed an allowance in the margin hereof:

Now the condition of the above written recognizance is such, that if the said L. M. do and shall duly account for all and every the sum and sums of money which he shall receive on account of the estate of the said infant A. B., and the rents and profits and other income thereof, at such periods as the said Court shall appoint, and do and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court hath directed, or shall hereafter direct: then the above recognizance shall be void and of none effect: otherwise, the same is to be and remain in full force and virtue.

Taken and acknowledged.

*Proceed as in No. 549, ante, to further order; and add: in the place of X. Y., his present guardian [Or, now deceased —Or, who has intermarried with W. U.—or as may be—and add, if desired, a direction for payment of the costs of the application].*

**555.**  
Notice of motion to remove a guardian of the person, or supply a vacancy occasioned by death, or by the marriage of a female guardian

*Formal parts: see ante, No. 12.*

1. *Show how the guardian sought to be removed, or deceased, or married, was appointed.*
2. *Show the grounds for such removal—or prove such death or marriage.*
3. *Show the fitness to be appointed of the proposed guardian, and his consent to act.*
4. *Show with whom, or under whose care, the infant is living.*

**556.**  
Affidavit in support.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that the said infant may be at liberty to accompany J. R. P. (*guardian*), on an intended visit to the L. C. R., in the K. of S.: on the undertaking of the said J. R. P. that the said infant shall return within the jurisdiction of this Court within (two months) from this time; or immediately, if so ordered by this Court.

**557.**  
Notice of motion for leave to take infant out of the jurisdiction.

In Chancery.

(*Short title.*)

I, A. B., the guardian of the person of the infant C. D., do hereby undertake that the said infant shall return within the jurisdiction of this Court within — months from this time; or immediately: if so ordered by this Court, or any Judge thereof.

Dated this — day of —, 18 —.

A. B.

**558.**  
Undertaking to bring infant back.

*Formal parts: see ante, No. 53.*

on the part of the infant plaintiff [*or as may be*], that the time limited by the order dated —, 18 —, for the return of the said infant within the jurisdiction of this Court, may be extended until the — day of —, 18 —: on the undertaking of W. H. H., one of his guardians, that he shall return within the jurisdiction within the last mentioned time.

**559.**  
Notice of motion to extend time for return of the infant.

**549.**  
Notice of mo-  
tions for an  
allowance for  
maintenance.

*Maintenance and advancement.—Management of property.*

*Formal parts :* see ante, No. 53.  
on the part of the infant plaintiff [or as may be: see ante, No. 549].

That the sum of £—— per annum may be allowed for the maintenance and education of the said infant, as from the —— day of ——, 18 ——, and for the time to come, during his minority, or until further order.

*If guardian of the person be also guardian of the estate, add :* And that such allowance may be retained and applied by W. F., the guardian of the person and estate of the said infant, by equal half yearly payments on the —— day of ——, and —— day of ——, out of the income of the said infant's estate: the first of such payments to be retained on the —— day of ——, 18 ——.

*Or if a receiver has been appointed, or another person is guardian of the estate, add :* And that such allowance may be paid by W. F. the guardian of the estate of the said infant [Or, the receiver appointed in this cause], by equal half yearly payments (as above); and that he may be allowed the same on passing his accounts.

*Or if to be paid out of a fund in Court, add :* And that such allowance may be paid to W. F., the guardian of the said infant, by equal half yearly payments (as before), out of the interest to accrue from time to time on the £—— Dominion Stock, standing in the name of the Accountant-General, on the credit of this cause [or as may be].

*Add, if desired, a direction as to the taxation and payment of the costs of the application :* see ante, No. 551.

**561.**  
Affidavit in  
support of mo-  
tion for allow-  
ance for main-  
tenance.

*Formal parts :* see ante, No. 12.

1. *Show the age of the infant, the nature and amount of his fortune, what relations he has, where he is residing, and under whose care :* see ante, No. 552.

2. *Show that the fund proposed to be operated upon for maintenance is available for that purpose.*

3. *Show that the sum sought to be allowed for maintenance is a proper amount ; and set forth, in a schedule, a scheme for the application thereof, under the following, or similar heads :—*

School bills	.. .. .
Clothing	.. .. .
Pocket money	.. .. .
Medical attendance	.. .. .
Maintenance, Travelling, and	
Incidental expenses in vacations	

Total .. .. £

*Formal parts: see ante, No. 53.*

on the part of the infant plaintiff A. B. [or as may be], that the sum of £— per annum may be allowed, in addition to the sum £— per annum allowed by the order dated the — day of —, 18 —, making together £— per annum, for the maintenance and education of the said infant A. B., as from the — day of —, 18 —, and for the time to come during his minority; and that such increased allowance of £— a year may be raised and paid in the same manner as the said allowance of £— is directed to be raised and paid by the said order of the — day of —, 18 — [or as may be].—*Add, if desired, a direction for payment of the costs: see ante, No. 551.*

549.  
Notice of motion for an increase of maintenance.

*Title—and address: see ante, No. 54.*

The humble petition of A. B., a person of unsound mind not so found, by C. D., of (residence and address), his next friend.

553.  
Petition for the appointment of a guardian, and allowance for maintenance, of a person of unsound mind, not so found.

Showeth as follows:

1. *Show state of mind of the petitioner; as thus:* Your petitioner is a person of weak or unsound mind; but he has never been so found by inquisition or other proceeding in lunacy.

2. *Show the age of the petitioner.*

3. *Show the nature and amount of the petitioner's fortune; and that the fund proposed to be operated upon for maintenance is available for that purpose.*

4. *Show what relations the petitioner has.*

5. *Show where the petitioner is now residing, and under whose care.*

6. It will be for the benefit and advantage of your petitioner that the said C. D. should be appointed guardian of his person; and that an allowance of £— should be made for his maintenance out of the income of his said property.

Your petitioner therefore humbly prays:

1. That the said C. D., or some other proper person may be appointed the guardian of the person of your petitioner during his minority, or until further order.

2. That the costs of this application may be taxed, and raised and paid out of the said £—, Dominion Stock [or as may be].

3. That out of the interest to accrue from time to time on the residue of the said stock, the annual sum of £— may be allowed for the maintenance of your petitioner; and be paid half yearly to his said guardian, until further order.



4. That the residue of the said interest may be laid out in like stock, and accumulated.

Or that your lordship's (*Conclude as in No. 55, ante*).

**564.**  
Affidavit in support of petition or motion.

*Formal parts: see ante, No. 12.*

1. *See ante, No 561, par. 1—3.*

2. *Prove by a medical man the present state of mind of the petitioner or applicant: see ante, No. 121.*

**565.**  
Notice of motion for an advance for the purchase of a commission in the army, and for outfit.

*Formal parts: see ante, No. 53.*

on the part of the infant plaintiff, that A. B. and C. D. may be at liberty, out of the capital of the sum of £—, now in their hands, and to which the said infant is entitled, to advance and pay £450 to Messrs. C. G. & Co., army agents, for the purchase of an Ensign's commission in Her Majesty's army for the said infant; and also to advance and pay £100 in providing the said infant with a suitable outfit.

**566.**  
Notice of motion for leave to article or apprentice an infant.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be: see ante, No. 549*].

1. That the said infant may be placed out as an article clerk [*Or, apprentice*] with A. B. of (*residence and addition*), for the purpose of being instructed in the profession [*Or, trade*] of a —.

2. That £— may be allowed as a proper premium to be paid to the said A. B., and the further sum of £— for the outfit of the said infant.

3. That proper articles of clerkship [*Or, a proper indenture of apprenticeship*] may be approved by —.

4. That upon the execution of such articles [*Or, indenture*] by the parties thereto, (*State how the premium, outfit, and costs are to be raised; as thus:*

E. F., the guardian of the said infant, may, out of the rents and profits of his estate, pay to the said A. B. the said premium of £—; and apply the said £— for such outfit.

*Or, C. D., the trustee of the will of E. W. deceased.—Or, B. C., the receiver appointed in this cause—may, out of the rents and profits of the said infant's estate, pay the said premium of £— to the said A. B., and pay the said outfit of £— to the said E. F.: on the undertaking of the said E. F. to apply the same for that purpose.*

Or, the said sum of £— and £— may be raised out of the £— Dominion Stock, standing in the name of the Accountant-General to the credit of this cause [*or as may be*]; and that out of the money thereby arising the said £— may be paid to the said A. B., and the £— to the said E. F. (*etc. : as last above*).

5. *Add, if desired, a direction as to the costs: see ante, No. 551.*

*Formal parts: see ante, No. 12.*

1. The (above named) infant G. H. is now of the age of — years. He has, of his own free will, chosen to be brought up to the profession [*Or, trade*] of a —; and wishes to be articled [*Or, apprenticed*] to learn such profession [*Or, trade*]. In my opinion he is physically adapted for such profession [*Or, trade*].

507.  
Affidavit in support.

2. I have for — years last past known, and been well acquainted with, A. B. of (*residence and addition of master*); and — years last past he has been continuously and — sively engaged in his profession [*Or, trade*] of a —.

3. The said A. B. resides with his wife and family; and from my knowledge of him, and from inquiries I have made of various persons also acquainted with him, I believe the said A. B. to be a person of good moral character, of respectability and integrity, and well versed in the said profession [*Or, trade*] of a —. In my judgment and opinion the said A. B. is a fit and proper person to have, and fully competent to instruct, an articled pupil [*Or, apprentice*] in the said profession [*Or, trade*].

4. The said A. B. is willing to take the said infant as an articled clerk [*Or, apprentice*] in his said profession [*Or, trade*] for a term of — years, on being paid a premium of £—.

5. I have made inquiries of various persons engaged in the said profession [*Or, trade*] of a —; and am informed by them, and believe, that the said premium of £— is a reasonable and proper sum to be paid to a person in the position of the said A. B.

6. The said infant will require an outfit on his being articulated [*Or, apprenticed*]; and, from inquiries I have made on the subject, I believe the sum of £— will be a necessary and proper sum to be allowed for such outfit.

*Marriage, and Marriage Settlements.*

568.  
Petition to  
interdict mar-  
riage of ward of  
Court.

*Title—*and address: see ante, No. 54.

The humble petition of A. B. of (*residence and addition*), the guardian of the above named plaintiff C. D., an infant [*or as may be*].

Showeth as follows :

1. *Show how infant has become a ward of Court ; as thus :* This suit has been instituted by the said plaintiff C. D., by E. F. her next friend, for the purpose of having the estate of G. D., deceased, the father of the said C. D., administered under the direction of this Honorable Court. The said C. D. is, under the will of the said G. D., entitled to one fourth of the clear residue of his personal estate : which is of considerable value.

2. *Show present age of infant ; as thus :* The said C. D. is now of the age of — years : having been born on the — day of —, 18 —.

3. *Show appointment of guardian, if any ; as thus :* By an order made in this cause by your lordship's [*or as may be*], dated the — day of —, 18 —, your petitioner was appointed the guardian of the said C. D. during her minority, or until further order.

4. *Show the grounds for the belief that a clandestine marriage is in contemplation ; and with whom ; and, if so, that the intended wife, or husband, is not a fit person.*

Your petitioner therefore humbly prays, that the said X. Y. and C. D., (*intended husband and wife*) may be restrained from intermarrying ; and from having any interview, intercourse, or communication with each other, in any manner whatsoever.

Or that your lordship (*Conclude as in No. 55, ante.*)

569.  
Notice of mo-  
tion to commit  
husband, for  
marrying ward  
without consent

*Formal parts : see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that A. B. of (*residence and addition*), may be committed to prison for a contempt of this Honorable Court in having married the infant defendant E. F. without the leave of the said Court.

570.  
Notice of mo-  
tion for inquiry  
as to validity of  
marriage of  
ward.

*Formal parts : see ante, No. 53.*

on the part of A. B., the guardian of the above named infant C. D. [*or as may be*], that an inquiry may be made whether the said infant C. D. has contracted a valid marriage with F. G., of (*residence and addition*), and under what circumstances ; and in case a valid marriage has been contracted,

that a proper settlement of the fortune of the said infant may be approved by the Court.

*Proceed as in No. 568, ante, to end of par. 3.*

4. *Show grounds for the belief that a marriage has taken place ; with whom, when, and where ; and by whose connivance.* 571.  
Petition for the like.

Your petitioner therefore humbly prays, that an inquiry may be made whether the said infant C. D. has contracted a valid marriage with the said F. G., and under (*Continue as in last Form, to the end*).

Or that your lordship (*Continue as in No. 53, ante, to the end*).

In Chancery.

(*Title of the cause or matter in which the infant is a ward of Court*) 572.  
Petition for leave for a ward of Court to marry.

To the Honorable (*see ante, No. 54*).

The humble petition of the above named infant E. F., by G. H., of (*residence and addition*), her testamentary guardian [*or as may be*].

Showeth as follows :

1—3. *Show how the infant has become a ward of Court—the infant's age—and the appointment of a guardian, if any : as in No. 568.*

4. *Show, concisely, the state of the infant's fortune ; and how invested.*

5. J. K., of (*residence and addition*), has made proposals of marriage to your petitioner : which proposals she has, with the sanction and approval of her said guardian G. H., accepted, subject to the approbation of this Honorable Court.

6. *State, shortly, the age, rank, position in life, and fortune of the proposed husband.*

Your petitioner therefore humbly prays, that an inquiry may be made whether the said proposed marriage is a fit and proper marriage for your petitioner ; and if so, that your petitioner and the said J. K. may be at liberty to lay proposals before the Judge in Chambers for a settlement on such marriage ; and that a proper settlement of the property of your petitioner may be approved, and be executed by all necessary parties ; and that, upon the due execution thereof, your petitioner and the said J. K. may be at liberty to intermarry.

*Add direction as to taxation and payment of costs.*

Or that your lordship (*Continue as in No. 53, ante, to the end*).

573.  
Notice of motion for leave for a ward of Court to marry.

*Formal parts: see ante, No. 53.*  
on the part of the above named infant E. F., by G. H., her testamentary guardian [or as may be]:

1. That the applicant may be at liberty to accept proposals of marriage made to her by J. K., of (*residence and addition*).
2. That a proper settlement prior to such marriage may be settled and approved by the Judge.
3. That, upon the execution of such settlement by all necessary parties, the applicant and the said J. K. may be at liberty to intermarry.
4. *Add direction as to taxation and payment of costs.*

574.  
Proposals for a settlement.

In Chancery,

(*Short Title.*)

The proposals of the infant E. F., and of J. K., for a settlement to be executed on their marriage.

The property of the said E. F. consists of (*State what*).

The property proposed to be settled by the said J. K. consists of (*State what*).

The trustees proposed on behalf of the said E. F. are,  
A. B., of (*residence and addition*); and C. D., of, &c.

The trustees proposed on behalf of the said J. K. are,  
B. C., of, &c., and X. Y., of, &c.

It is proposed to vest the whole of the fortune of the said E. F. in the said four trustees, upon the following trusts (*State the same shortly; as thus*):

Upon trust for the said E. F. till the marriage; and after the marriage,

Upon trust to pay the income to the said E. F., for her separate use, but without power of anticipation, during the joint lives of the said E. F. and J. K.; and after the decease of either, to pay the income to the survivor for life.

After the death of the survivor, the corpus to be held in trust for the children or remoter issue of the marriage, as the said E. F. and J. K. shall jointly by deed, and, in default, as the survivor shall by deed or will, appoint; and subject to any such appointment, in trust for the children of the marriage equally: to vest in sons at twenty-one, and in daughters at twenty-one or marriage.

In default of issue, the corpus to be held in trust for the said E. F., if she survives the said J. K.; and if not, then in trust for her testamentary appointees, or statutory next of kin, as if she had never been married).

Power to be reserved to the said E. F., if she survives the said J. K., to make a settlement, out of her fortune, on a

subsequent marriage: to the extent of one half, if but one child of the present marriage; and of one third, if two or more such children. The settlement to contain an agreement to settle any other or future property of the said E. F. amounting, at any one time at the time of the acquisition thereof in possession, to £—, except plate, jewels, and similar articles: which excepted articles are to be held for her separate use.

*Set out, in like manner, the proposed trusts of the property to be settled by the husband.*

The settlement also to contain all such provisions as to maintenance, advancement, hotchpot, investment and transposition, appointment of new trustees and reimbursement, as the Judge may approve.

*Date, Title, and introduction.*

And the Judge being of opinion that the proposed marriage between the said A. B. and the said infant C. D. is a fit and proper marriage for the said infant; and it appearing that the property to which the said infant is entitled consists of £—, standing in the name of the Accountant-General, to the credit of this cause, "The account of C. D., an infant;" and the Judge having approved the settlement hereinafter contained, as a proper settlement to be made of the said property upon or in contemplation of the said marriage, doth sanction and approve the same; and doth order, that the taxing master do tax the costs of the infant of this application, and incident thereto; and that, upon the production of a certificate of the solemnization of the said marriage, so much of the said £— as will raise the said costs and £50, be sold; and that out of the money to arise from such sale, the said costs be paid to Mr. E. F., the applicant's solicitor, and the said £50 be paid to G. H., the guardian of the said infant, for the outfit of the said infant: he undertaking duly to apply the same; and that the residue of the said £— be carried over in trust in this cause, "The account of the settlement of C., the wife of A. B., and her children;" and be thenceforth held upon the following trusts: namely: upon trust for the said C. D. for her life, and, during any coverture, for her separate use without power of anticipation. And after her decease, in case the said A. B. shall survive her, upon trust for him for his life. And after the decease of the survivor of them, upon trust for all, or any one or more, exclusively of the other or others, of the children of the said C. D., by her said intended or any future marriage, as she shall, by deed or will, appoint; and in default of such appointment, and in so far as no such appointment shall extend, in trust for all the children, or the child, of the said intended marriage who being sons or a son shall attain the age of twenty-one years, or, being

575.  
Order approving marriage of ward, and settling fund fund, without deed.

daughters or a daughter, shall attain that age, or marry under that age; and if more than one in equal shares. And in case there shall be no such child who, being a son, shall attain the said age, or, being a daughter, shall attain that age or be married, then, in case the said C. D. shall die under coverture, in trust for such person or persons as she shall, by her last will, appoint; and in default of such appointment, in trust for the next of kin of the said C. D., according to the statutes for the distribution of the estates of intestates, as if she had never been married; but in case she shall survive her present or any future husband, then in trust for the said C. D., her executors, administrators, and assigns. And any of the said children who shall take appointed shares shall bring such appointed shares into hotchpot, with their brothers and sisters, taking in default of appointment. And it is ordered that, after the said intended marriage, the interest to accrue on the sums of annuities to be carried over as aforesaid be from time to time, as the same shall accrue, paid to the said C. D., on her separate receipt, during her life, or until further order.—Liberty to apply.

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## CHAPTER XXI.

### THE FURTHER CONSIDERATION OF CAUSES.

—:O:—

**578.**  
Notice that the  
cause has been  
set down.

*Formal parts : see ante, No. 52.*

Take notice, that this cause was this day [Or, on the  
— day of —, 18 —], set down for further consideration  
before — [or as may be], for the — day of —, 18 —.

## CHAPTER XXII.

### SECTION I.—OBTAINING COPIES OF DOCUMENTS FROM PARTIES OR SOLICITORS.

—:O:—

Every defendant appearing by a different solicitor is entitled to demand from the plaintiff two printed copies of the plaintiff's bill, on payment for the same at the rate of two cents per folio.—Order 405. 577.  
Copies of bills.

In Chancery.

(Short title of the cause or matter.)

We [*Or I*] request to be furnished with the undermentioned copy [*Or, copies*]; and (*in case of a bill*, hereby undertake to pay the proper charges for the same); viz: 578.  
Request to be furnished with copies, and undertaking to pay the charges.

(*Describe the pleading or other proceeding of which a copy or copies is or are required; as thus:*)

One copy of the affidavit of A. B., filed — 18 —.

One copy of the joint affidavit of A. B. and C. D., filed —, 18 —.

One copy of each of the affidavits of A. B., C. D., and E. F., filed —, 18 —.

Two printed copies of the plaintiff's (amended) bill.

Copy of the answer of the defendant A. B. to the plaintiff's (amended) bill.

A printed copy of the answer of the defendant C. D. to the plaintiff's bill.

A copy of the plaintiff's bill of costs.

A copy of the petition of appeal of the plaintiff [*or as may be*].

Dated (*&c.*: Conclude as in No. 52, ante).

#### SOLICITOR.

Instructions for suit.....	\$2 00	579. Tariff referred to in Order 309.
Instructions to defend.....	2 00	
Instructions for petition where no bill is filed.....	2 00	
Letter of notice before instituting suit.....	0 50	
Drafting bill not exceeding 20 folios, including copy to keep.....	4 00	



For every additional folio above 20, (to be allowed in the discretion of the Master) including copy to keep, per folio.....\$0 20

[No greater sum than \$6, to be taxed by the Master for drawing any bill, without the special direction of one of the Judges of the Court upon the application of the solicitor requiring the same, for which application no charge is to be made.]

Drafting answer or other pleading, petition or special affidavit, per folio.....\$0 20

[No greater sum than \$6, to be taxed for drawing any answer, petition, or affidavit, without the special direction of one of the Judges of the Court, as provided for in the case of bills; and no greater sum is to be allowed for drawing an answer, petition, or affidavit, than would have been taxed irrespective of this order.]

Engrossed copies to file, copies to serve (other than copies on which a fee is paid to the Master, Clerk of Records and writs, or Deputy Registrar, for reading over or authenticating the same), per folio.....\$0 10

Copies of orders or other papers or documents, required to be served, per folio..... 0 10

Office-copies authenticated by the Clerk of Records and Writs, or Deputy Registrar, per folio..... 0 08

Affidavits of service of bill, including attendance to swear..... 1 00

Affidavits of service, including attendance to swear... 0 40

Precipe for any process, including attendance..... 0 50

Special attendance on Master's warrant or appointment, or on examination of witnesses, or on hearing of cause or demurrer or special motion..... 1 00

[No such fee or any other costs of, and incidental to an appointment, is or are, to be allowed by the Master to any party, either by consent, or on any ground whatever, as part of the costs of the cause, when the appointment was adjourned without being proceeded on, or where no substantial progress with the reference was made thereon. But the Master may order the payment of such costs as provided for by Order 213.]

When the hearing shall exceed one hour, then for every additional hour which shall be occupied by such hearing, and at which the solicitor shall be present in Court, provided the same be noted in the Registrar's book, or be proved by affidavit (such affidavit to be without charge,) the same not to exceed \$4...\$1 00

For every additional hour beyond one hour in the Master's office..... 1 00

[For attendance in the Master's office upon a warrant or appointment to hear and determine, the Master may increase the fee for such attendance to any sum not exceeding two dollars per hour, where, in the judgment of the Master, the matters to be heard and determined are of such special nature as to have required previous preparation, and where the Master finds that previous preparation has been bestowed thereupon, and that in his judgment such increased fee is reasonable and proper under the circumstances; but no such allowance is to be made for more than one day, unless the hearing is proceeded with *de die in diem* to the conclusion thereof; or unless such proceeding be prevented by a party other than the one claiming the increased allowance; and the increased allowance is not to be made unless the same is noted at the time in the Master's book.]

For every additional hour in the examination of witnesses where no counsel employed.....\$1 00

[The fee on the attendance of a solicitor, where the solicitor attends in person, and no counsel is employed, may in special cases be increased in the discretion of the Judge, or Officer before whom the examination is had, to two dollars, and where the examination occupies more than one hour, then two dollars for every additional hour which is so occupied, and during which the solicitor is present in attendance thereupon, provided the same is noted at the time in the Registrar's book, or in the book of the Master, or other Officer, as the case may be.]

Attending consultations of counsel, per hour.....\$1 00

[No special attendance to be allowed to a solicitor on proceedings upon which he appears also as counsel.]

Appointment to settle minutes, or to pass decree or order, copy and service..... 0 80

For every hour's attendance before the Registrar by his appointment, on settling minutes, the same being noted by the Registrar ..... 1 00

For every hour's attendance before the Registrar by his appointment, on passing decree or special order, the same being noted by the Registrar..... 1 00

[The fee on settling minutes and on passing decrees or orders may be increased in the discretion of the Registrar, in special cases, to two dollars, where the solicitor attends personally on such settling or passing.]

Where minutes settled, or decrees or special order approved of or passed between the solicitors after appointment issued by the Registrar..... 1 00

[In such case no fee to be allowed to either party as for attendance before the Registrar in respect of the same settling or passing.]

Fee on all writs and orders of Court to the party obtaining the same.....	\$1 00
Instructions for brief .....	1 00
Brief, per folio, including briefing and fair copy, subject to be reduced by the Master, if the same contain superfluous matter, or be of unnecessary length.....	0 10
Observations, or other original matter in brief, per folio .....	0 20
[A brief of depositions or special affidavits to be allowed only where fee and brief for second counsel is taxed.]	
Drawing special minutes when prepared by the solicitor, per folio.....	0 20
Advertisement for sale of real or personal estate, under the direction of the Court, including all copies, except for printing.....	1 00
Copies for printing, per folio.....	0 10
Fee on conducting sale, including arrangements with auctioneer, correcting proof-sheets (if any), and attending sale.....	5 00
For every hour beyond three occupied at such sale....	1 00
Drawing bill of costs and attending taxation.....	1 00
Drawing Judge's appointment, and attending for his signature, and to serve.....	1 00
Every necessary attendance.....	0 50
Necessary agency letters in the course of a cause or matter, to be allowed on taxation between party and party, as attendances.	

Postages—the amount actually disbursed.

[The sum allowed for copying and briefing shall be ten cents per folio, except where authenticated by the Clerk of Records and Writs, or read over by the Master; but the same shall not in any case exceed one half of the amount allowed for drawing what shall be so copied or briefed.]

## COUNSEL.

On argument in Chambers in cases proper for the attendance of Counsel, to be increased at the discretion of the Judge.....	\$2 00
On settling and signing pleadings and petitions respectively, where from their special nature the Master shall think the pleading or petition a proper one to be settled by counsel.....	2 00
On consultations.....	5 00
On special applications to the Court, arguing demurrer or other special argument, or at the hearing of a cause.....	10 00

[To be increased, in the discretion of the Master, to a sum not exceeding \$40 to senior counsel, and \$20 to junior counsel, in suits of a special and important nature; but more than one counsel fee is not to be allowed in any case not of a special and important nature. Where two counsel fees or an increased fee is allowed by a Local Master, he is to forward to the Taxing Officer with the bill, upon transmitting it for revision, such information as may enable the Taxing Officer to judge of the propriety of the fee or fees allowed.]

## MASTER.

Every summons or warrant.....	\$0 30
Administering oath, or taking affirmation.....	0 20
Marking every exhibit.....	0 20
Drawing depositions, reports or orders, per folio.....	0 20
One fair copy when necessary, per folio.....	0 10
Copy of papers given out when required, per folio.....	0 10
Every attendance upon a reference.....	1 00
For each additional hour.....	1 00
Every certificate.....	0 50
Filing each paper.....	0 10
Taxing costs, including attendance.....	1 00
Making up and forwarding answers and depositions...	0 30
Every special attendance out of office, within two miles.	1 00
Every additional mile above two.....	0 20
Reading affidavit, per folio.....	0 02
Matter added, per folio.....	0 20
Searching files in office.....	0 20

## REGISTRAR.

Drawing minutes of decree or special order, per folio..	\$0 20
Drawing decree or order, per folio.....	0 20
Entering same, per folio.....	0 10
Fee on payment of money into Court.....	0 30
Fee on payment of money out of Court.....	0 30
Fee on admission of Solicitor.....	1 00
Commission appointing Local Master or Deputy Registrar .....	2 00
Attendance on appointment of guardian.....	0 50

## JUDGES' SECRETARY.

On every application in Chambers (including the order thereon, if made), for a decree against infants, for

the administration of an estate, for the sale of an infant's estate, to declare a person a lunatic, for interim alimony, for a vesting order, for final order of foreclosure or sale, for foreclosure after abortive sale, to extend time for payment of mortgage money, or for taxation.....\$1 00

On every other application (including the order thereon, if made) ..... 0 50

For other services, the like fees as are payable to the Master.

## SPECIAL EXAMINERS.

Every summons or warrant .....\$0 30

Administering oath, or taking affirmation..... 0 20

Marking each exhibit..... 0 20

Drawing depositions, per folio.... 0 20

Copy for Solicitor, when required, per folio..... 0 10

Every attendance out of office, when within two miles 1 00

Every attendance out of office above two miles, extra per mile..... 0 20

Every certificate..... 0 50

Making up and forwarding answers and depositions... 0 30

Every attendance upon an appointment, when solicitor or witnesses do not attend, and examiner not notified..... 1 00

## CLERK OF RECORDS AND WRITS, AND DEPUTY REGISTRARS.

Entering parties' names, and filing bill, answer or demurrer .....\$0 50

Entering and filing all other pleadings, interrogatories and depositions, or other evidence..... 0 20

Filing and registering affidavits, exhibits, or other papers..... 0 10

Entering note *pro confesso* ..... 0 50

Subpoena, including filing precepe..... 0 50

Special writ, writ of commission... 1 00

Office-copy of papers required to be given out, per folio 0 10

Examining and authenticating same, when office-copy prepared by Solicitor, every three folios..... 0 05

Amendment of record, when re-engrossment not necessary, per folio ..... 0 20

Making up, and forwarding interrogatories..... 0 30

Setting down cause, other than for hearing *pro confesso* 2 00

[The fee payable to a Deputy Registrar on setting down a cause for hearing to be \$8.]

Setting down cause <i>pro confesso</i> .....	0 50
Certificate of pleadings being filed .....	0 40
Certificate of state of cause .....	0 50
Searching files in office .....	0 20

## SHERIFFS.

Receiving, filing, entering and endorsing every paper..	\$0 25
Return of all process and writs except subpoenas.....	0 50
Warrant to bailiff, on writ not executed by Sheriff or Deputy .....	0 50
Serving each office-copy bill, including affidavit of service .....	1 00
Serving each warrant, notice, certificate, subpoena, or other paper.....	0 50
Writ of arrest—arrest on, when amount endorsed under \$200.....	1 00
\$200, and under \$400.....	2 00
\$400, and over.....	4 00
Attachment, arrest on.....	2 00
Sequestration, upon seizure of estate and effects under writ of sequestration .....	2 00
Schedule of goods taken in execution, including copy for defendant, if not exceeding 5 folios.....	1 00
Each folio above 5 .....	0 10
Removing or retaining property, reasonable and necessary disbursements, and allowances to be made by the Master or by order of the Court or Judge.	
Poundage upon sequestration, followed by sale (r). Where amount made under \$400, at.....	5 per cent.
\$400, but under \$4,000, 5 per cent. for the first \$400, 2½ per cent. for the residue. \$4,000 and over, 1½ per cent. on whatever exceeds \$4,000 in addition to the poundage allowed up to \$4,000, in lieu of all fees and charges for services and disbursements, except mileage in going to seize, and disbursements necessarily incurred in the care and removal of property, to be allowed by the Master in his discretion.	

(r) The plaintiff had obtained a decree in this cause against the defendants, by which money was ordered to be paid, and on which the plaintiff issued execution and lodged it in the hands of a sheriff. After seizure under the writ, but before the money was levied, the defendant moved for and obtained leave to re-hear the cause, and a stay of the execution, on the terms of paying the money into Court, which was done: *Held*, that the Sheriff, not having actually levied the money under the execution, was not entitled to poundage, but to fees only for services actually rendered, to be settled by a Judge in Chambers: *Winters v. Kingston*, P. B. Sy. 1 Chanc. R. 276.

For services not specified—The like charges as are allowed at Common Law for analogous services.

P. M. VAN KOUGHNET, C  
J. G. SPRAGGE, V. C.  
O. MOWAT, V. C.

23rd June, 1868.

## SECTION II.—METHOD OF TAXATION.

550.  
Request to Taxing Master, to moderate bill of costs claimed against an estate under administration.

### *Formal parts.*

The proper Taxing Master is requested to tax and settle the accompanying bill of costs, identified by my initials thereon: which is claimed against the estate of A. B., deceased, the testator [*Or, intestate*] in the pleadings of this cause named [*or as may be*].

551.  
Headings of bills of costs.

### *In chancery.*

(*Title of the cause or matter.*)

The bill of costs—*If so*: and costs, charges, and expenses of the plaintiffs:

*Or, of all the defendants:*

*Or, of the defendants A. B., &c.:*

*Or, of C. D., and E. F., who have liberty to attend the proceedings, under order dated the — day of —, 18*

*—: or as may be:*

to be taxed—*If so*: as between solicitor and client—under the decree [*Or, order*] dated the — day of —, 18 —.

## CHAPTER XXIII.

### REHEARING AND APPEALS.

—:O:—

## SECTION I.—GENERALLY.

552.  
Notice of motion, to stay proceedings pending an appeal.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B. [*or as may be*], that all proceedings upon or under the decree [*Or, order*] dated the

— day of —, 18 —, made in this cause, is now being prosecuted in the Court of Chancery and Appeal. And take notice (*as in No. 53*).

In Chancery.

(*Short style of cause.*)

553.  
Notice of setting down cause for re-hearing.

Take notice that this cause has been set down for re-hearing on the — day of —, and unless you attend at the time and place appointed, a decree may be pronounced in your absence.

Dated, &c.

Yours, &c.,

To C. D.,

Defendant's Solicitor.

A. B.,

Plaintiff's Solicitor.

## CHAPTER XXIV.

### REVIVOR AND SUPPLEMENT.

—:O:—

#### SECTION I.—ORDERS OF REVIVOR, AND SUPPLEMENTAL ORDERS.

*Insolvency.*—On the — day of —, 18 —, the plaintiff <sup>554.</sup> [or as may be] became an Insolvent under the Insolvent Acts in force in this Province; and A. B. has been appointed, and is now, the official assignee of his estate and effects under the said insolvency. Common forms of allegations in the precepts, for an order of revivor.

*Insolvency: Appointment of new assignee.*—E. F. has been appointed, and is now, the official assignee of the estate and effects of the said A. B., in lieu of the said C. D.

*Death.*—On the — day of —, 18 —, the plaintiff [or as may be] died.

*Decree.*—A decree, dated the — day of —, 18 —, was made in this cause: whereby certain accounts and inquiries were directed to be taken and made; and which accounts and inquiries are now in course of prosecution.

*Master's Report.*—The Master at —, on the — day of —, 18 —, made his report of the result of the said accounts and inquiries.

*Heirship.*—The said plaintiff [or as may be] left A. B. his heir at law.



*Letters of administration.*—On the — day of —, 18 —, letters of administration of the personal estate of the said A. B. were granted to C. D.: whereby he became, and is now, the legal personal representative of the said A. B.

*Lunacy, and appointment of committee.*—On the — day of —, 18 —, the plaintiff [or as may be] was found lunatic by inquisition [or as may be], and C. D. has been appointed, and is now, the committee of his estate.

*Lunacy: Appointment of new committee.*—On the — day of —, 18 —, E. F. was appointed committee of the estate of the said A. B., in lieu of the said C. D.

*Marriage of female plaintiff.*—On the — day of —, 18 —, the plaintiff A. B. intermarried with, and she is now the wife of, C. D., of, &c.

*Marriage settlement.*—By an indenture dated the — day of —, 18 —, executed on the said marriage, all the share and interest of the plaintiff in the subject matter of this suit has been assigned to E. F. and G. H., upon certain trusts thereby declared thereof.

*Order of revivor, or supplemental order.*—By an order dated the — day of —, 18 —, it was ordered that, &c.

*Order on further consideration.*—On the — day of —, 18 —, an order was made at the hearing on further consideration of this cause; and thereby certain directions were given; and the further consideration of this cause was adjourned.

*Probate.*—The said A. B. by his last will dated the — day of —, 18 —, appointed C. D., and E. F., executors thereof. On the — day of —, 18 —, the said will was proved by the said C. D., and E. F.; whereby they became, and are now, the legal personal representatives of the said A. B.

353.  
Order of  
revivor.

In Chancery.

*Full style of cause.—Before revivor.*

*Recite the præcipe as in No. 584, and then add:*

It is therefore ordered that this suit do stand revived at the suit of the said plaintiff [Or, in the name of the said — as plaintiff] against the said defendants [Or, against the said — as defendants], and be in the same plight and condition as the same was in at the time of the said abatement.

584.  
Enforcement  
on order of  
revivor, under  
Order 311,  
being part of  
Schedule N  
referred to in  
that order.

“Take notice that if you desire to discharge this order, you must apply to the Court, by motion or petition, for that purpose, within fourteen days after the service hereof upon

you. The original bill in this cause is filed in the office of the Clerk of Records and Writs [Or, Deputy Registrar] at —;” (and if the service is after a decree directing a reference to a Master, add): “and the reference under the decree in this cause is being prosecuted in the office of the Master at —.”

## SECTION II.—APPOINTING, OR DISPENSING WITH A REPRESENTATIVE.

*Formal parts: see ante, No. 53.*

on behalf of the plaintiff [or as may be], that the defendant A. B. [Or, of (residence and addition), ] may be appointed to represent the estate of C. D., deceased [Or, the respective estates of C. D., and E. F., deceased], in the plaintiff's bill named [or as may be], for the purposes of this suit.

557.  
Notice of motion to appoint a representative

*Formal parts: see ante, No. 53.*

on behalf of the plaintiff [or as may be], that this cause, and the proceedings therein, may be carried on and prosecuted, notwithstanding the absence of any person representing the estate of A. B. [Or, the respective estates of A. B., and C. D.], deceased, in the plaintiff's bill named [or as may be]. And take notice (as in No. 53).

558.  
Notice of motion to dispense with a representative.

## SECTION III.—SUPPLEMENTAL STATEMENTS.

In Chancery.

Between (Set out the title of the cause.)

Statement, by way of supplement, to be annexed to the bill of complaint of the above named plaintiff.

559.  
Formal parts of a supplemental statement, under Orders 349, 350, and 351

1. } (Set forth, concisely, the supplemental matter, in paragraphs, numbered consecutively.)
2. }
3. }

(Name of counsel.)

## CHAPTER XXV.

### FRAME AND END OF CERTAIN KINDS OF BILLS.

—:O:—

#### SECTION I.—BILLS OF DISCOVERY.

**590.**  
Form of a bill  
of discovery.

The formal parts of a bill of discovery are the same as those of an original bill. The bill must state the matter touching which discovery is sought; the interest of the plaintiff and defendant in the subject; and the facts and circumstances upon which the right of the plaintiff to require the discovery from the defendant is founded. The bill should pray that the defendant may make a full discovery of the matters therein stated. It may also pray any equitable assistance of the Court which is merely consequential upon the discovery; but it should not pray general relief: for then it is a bill for relief.

**591.**  
Affidavit by  
sole plaintiff:  
to be annexed  
to a bill for  
discovery of  
documents, and  
for relief there-  
on.

In Chancery.

(*Title of the cause.*)

I, A. B., of (*residence and addition*), the above named plaintiff, make oath and say, as follows:

1. I have not, and, to the best of my knowledge, remembrance, and belief, I never had, in my custody or power, the (*Describe the document; as thus: indenture dated the — day of —, 18 —, mentioned in the first paragraph of the bill in this cause hereunto annexed—Or, now produced and shown to me, and marked A.*).

2. I do not know where the said indenture [*or as may be*] now is: unless it is in the custody or power of the above named defendant [*Or, defendants, or some or one of them*].

Sworn (&c.: *see ante*, No. 13).

**592.**  
The like, by  
several plain-  
tiffs.

In Chancery.

(*Title of the cause.*)

We, A. B., of (*residence and addition*), C. D., of, &c., and E. F., of, &c., the above named plaintiffs, each speaking positively for himself, and to the best of his knowledge, information, and belief as to other persons, severally make oath and say, as follows:

1. We have not, nor have nor hath any or either of us, and, to the best of our knowledge, information, and belief,

we, or any or either of us, never had, in our, or any or either of our custody, possession, or power, the (*Describe the document; as thus:* deed of gift mentioned in the second paragraph of the bill in this cause hereunto annexed—*Or,* produced and shown to us respectively at the time of swearing this affidavit and marked B.).

2. We do not, nor do or doth any or either of us, know where the said deed [*or as may be*] now is: unless it is in the custody or power of the above named defendant [*Or,* defendants, or some or one of them].

Sworn (&c.: *see ante*, No. 14).

*Formal parts: see ante*, No. 53.

on behalf of the defendant A. B., for an order for payment by the plaintiff of his costs of this suit: the bill being for discovery only.

593.  
Notice of motion by defendant, for payment of his costs of the suit.

The defendant's answer was filed on —, 18 —.

## SECTION II.—BILLS OF INTERPLEADER.

The formal parts of a bill of interpleader are the same as those of an original bill. The bill must state the plaintiff's own rights, and the claims of the defendants; and show the plaintiff's right to compel them to interplead. The bill prays that the defendants may interplead: so that the Court may adjudge to whom the thing belongs, and that the plaintiff may be indemnified. If any suits at law are brought against him, he may also pray that the claimants may be restrained from proceeding, till the right is determined.

594.  
Form of a bill of interpleader.

In Chancery.

(*Title of the cause.*)

I, A. B., of (*residence and addition*), the above named plaintiff, make oath and say, that the bill in this cause hereunto annexed [*Or,* now produced and shown to me, and marked A.], is not filed in collusion with the above named defendants, or any or either of them; but merely of my own accord, for relief in this Honorable Court.

595.  
Affidavit by sole plaintiff, of no collusion.

Sworn (&c.: *see ante*, No. 13).

*Proceed as in ante*, No. 592, to as follows; and continue thus: The bill in this cause hereunto annexed [*Or,* produced and shown to us respectively, at the time of swearing this

596.  
Affidavit by several plaintiffs, of no collusion.

affidavit, and marked A.], is not filed in collusion by us, or any or either of us, with the above named defendants, or any or either of them; but merely of our own accord, for relief in this Honorable Court.

**597.**  
The like, by  
one of several  
plaintiffs.

In Chancery.

(Title of the cause.)

I, A. B., of (*residence and addition*), one of the plaintiffs named in the bill in this cause, and hereunto annexed, make oath and say as follows:

I alone of the plaintiffs have attended to the matters mentioned in the bill of complaint hereunto annexed; and my co-plaintiffs are not acquainted with the facts; and I say that the said bill of complaint is not filed in collusion by myself, or any of the plaintiffs therein named, with any of the defendants in the said bill named; but merely of the plaintiffs' own accord, for relief in this Honorable Court.

**598.**  
The like, by a  
public officer,  
so suing.

Proceed as in No. 591, ante, to as follows:

The bill in this cause hereunto annexed [Or, now produced and shown to me, and marked A.], is not filed in collusion by me with the above named defendants, or any of them, nor, to the best of my knowledge, information, and belief, in collusion by, or by any other person or persons on behalf of, the ——— company, in the said bill named, with the said defendants or any of them; but merely of my own accord, as the public officer of the said company, for relief in this Honorable Court.

**599.**  
Affidavit by the  
plaintiff's solicitor,  
of no collusion.

In Chancery.

(Title of the cause.)

I, A. B., of (*Place of business*), gentleman, the solicitor in this cause for the above named plaintiff, make oath and say as follows:

1. *Show why the affidavit is not made by the plaintiff; as thus:*  
The above named plaintiff is resident at ———, out of the jurisdiction of this Honorable Court.

2. The bill in this cause hereunto annexed [Or, now produced and shown to me, and marked A.], is not filed in collusion by me with the above named defendants, or any of them, nor, to the best of my knowledge, information, and belief, in collusion by the above named plaintiff, or by any person or persons on his behalf, with the said defendants, or any of them, nor to avoid or delay the payment of the sum

of £—, in the said bill mentioned [*or as may be*]; but merely of the plaintiff's own accord for relief in this Honorable Court,

3. *Show means of knowledge.*

In Chancery.

Between A. B.....Plaintiff,  
and  
C. D... ..Defendant.

600.  
Notice of motion for an interpleader order

Take notice that this Honorable Court will be moved in Chambers on — next, the — day of —, at the hour of ten o'clock in the forenoon, or so soon thereafter as the motion can be made, at Osgoode Hall, in the city of Toronto, on behalf of the sheriff of the county of —, for an interpleader order in this cause in the usual form between the above named defendant C. D., and E. F. the claimant; and you the said defendant C. D., and the said E. F., your solicitors or agents, are required to attend before this Honorable Court in Chambers at the time and place aforesaid, and state the nature and particulars of your respective claims to the goods and chattels seized by the said sheriff under the writ of *fiat facias* issued in this cause, and to maintain and relinquish the same, and submit to and abide by such order as may be made herein for the trial of an issue or otherwise; and in the event of the non-attendance of either party, an order may be made barring the claim of such party not attending with costs and protecting the said sheriff. And take notice, that on the return of this notice the same or a similar form of interpleader will be asked for as is usual in such cases on the return of an interpleader.

### SECTION III.—BILLS TO PERPETUATE TESTIMONY.

The formal parts of a bill to perpetuate the testimony of witnesses are the same as those of an original bill. The bill must state the matter touching which the plaintiff is desirous of taking evidence; and must show that he has some interest in the subject; and pray for leave to examine witnesses touching the matter so stated: to the end that their testimony may be preserved and perpetuated.

601.  
Form of a bill to perpetuate testimony.

*Formal parts: see ante, No. 53.*

on behalf of the defendant A. B., for an order for the payment by the plaintiff of his costs of this suit: which is

602.  
Notice of motion by defendant for payment of his costs of the suit.

instituted to perpetuate the testimony of witnesses only.

The plaintiff has examined his witnesses, but the defendant has not examined any witness.

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## CHAPTER XXVI.

### INTERLOCUTORY AND OTHER APPLICATIONS BY MOTION OR PETITION, AND ORDERS THEREON.

—:O:—

#### SECTION I.—GENERALLY.

**603.**  
Notice of motion, to discharge an order for irregularity.

*Formal parts: see ante, No. 53.*  
on the part of the defendant A. B. [*or as may be*], that the order made in this cause [*Or matter*], dated the — day of —, 18 —, on the application of the plaintiff [*or as may be*], whereby it was ordered that, &c., may be discharged for irregularity: with costs to be paid by the said plaintiff [*or as may be*], to the said A. B. And take notice (*as in No. 53*).

**604.**  
Notice of motion, to make an order *nisi* absolute.

*Formal parts.*  
on behalf of the plaintiff [*or as may be*], that the annexed order *nisi*, dated —, 18 —, may be made absolute. And take notice (*as in No. 53*).

An affidavit in support accompanies.

**605.**  
Affidavit of service of order *nisi*.

The same as No. 38, 40, or 419, *ante*.

**606.**  
Formal parts of a notice of motion.

The same as No. 53, *ante*.

**607.**  
Notice of motion for substituted service of a notice of motion.

*Formal parts.*  
on behalf of the plaintiff [*or as may be*], that service of the annexed notice of motion upon [*Describe the proposed substitute; as thus: C. D., of (residence and addition)— Or, C. D., and E. F., members of the firm of D. and F., of (Place of business, and addition), or upon either of them*], may be deemed good service on the defendant A. B. [*or as may be*]. And take notice (*as in No. 53*).

An affidavit in support accompanies.

The same as No. 37, or 40, *ante*.

**608.**  
Affidavit of  
service of notice  
of motion.

SECTION II.—PETITIONS.

The same as No. 54, *ante*.

**609.**  
Formal parts of  
a petition of  
course.

The same as No. 55, *ante*.

**610.**  
Formal parts of  
a special petition.

The same as No. 56, *ante*.

**611.**  
Consent to a  
petition.

*Formal parts.*  
on behalf of the petitioner, that service of his petition,  
presented on the —, 18 —, upon (Conclude as in No. 607). a petition.

**612.**  
Notice of motion  
for substituted  
service of

*Formal parts.*  
on behalf of the petitioner, for leave to serve a copy of his  
petition, presented on the —, 18 —, upon A.B., at (State  
where; as thus: Dublin, or elsewhere in Ireland). And take  
notice (as in No. 53).

**613.**  
Notice of motion  
for leave to  
serve a petition  
abroad.

The same as No. 39, or 41, *ante*.

**614.**  
Affidavit of  
service of, or of  
having been  
served with, a  
petition.

CHAPTER XXVII.

INJUNCTIONS AND RESTRAINING ORDERS.

—:O:—

SECTION I.—GENERALLY.

That the defendant A. B. may be restrained, by the order  
and injunction of this Honorable Court, from (State what;  
as thus: prosecuting the said action so commenced by him  
as aforesaid against the plaintiff; and that all the defendants  
may be respectively restrained, in like manner, from com-  
mencing or prosecuting any other action or proceeding  
against the plaintiff, for the recovery of the rent now due

**615.**  
Prayer for in-  
junction, in a  
bill.



from the plaintiff under the said lease, or any part thereof; or otherwise concerning the matters aforesaid).—*And see post*, Nos. 620—631.

**616.**  
Notice of administration decree, to a creditor proceeding at law.

### In Chancery.

(*Title of the suit in equity.*)

Take notice, that by a decree [*Or*, an order], dated the — day of —, 18 —, in this suit: which has been instituted for the administration of the estate of A. B., late of, &c., deceased: the usual accounts are directed to be taken of the estate of the said A. B., including an account of his debts.

Take also notice, that inasmuch as you, the under named C. D., can go in under the said decree [*Or*, order], and prove the debt, if any, alleged to be due to you from the estate of the said A. B., for the recovery whereof you have brought an action in Her Majesty's Court of Queen's Bench [*or as may be*], against E. F., the executor [*Or*, administrator] of the said estate, and for the costs of the said action to this time, if you the said C. D., after the receipt of this notice, proceed with the said action, an application will be made to the Court of Chancery to restrain you, your attornies and agents, from further prosecuting the said action, and to deprive you of the costs incurred therein subsequent to the receipt of this notice. Dated this — day of —, 18 —.

G. H. of (*Place of business*),  
solicitor for the said E. F.  
[*or as may be*].

To the said C. D., and to Mr. L. M., his attorney [*Or*, agent] in the said action.

**617.**  
Notice of motion, to restrain a creditor from proceeding at law, after an administration decree.

*Formal parts: see ante*, No. 53.

on the part of the plaintiff [*Or*, defendant E. F.] :

1. That C. D., his attornies and agents, may be restrained from further prosecuting the action brought by him in Her Majesty's Court of Queen's Bench [*or as may be*], against the defendant E. F. [*or as may be*], the executor [*Or*, administrator] of A. B., the testator [*Or*, intestate] in the pleadings of this cause named, to recover a debt alleged to be due to the said C. D. from the estate of the said A. B. [*or as may be*].

2. That the said C. D. may be at liberty to go in under the decree [*Or*, order] made in this cause dated the — day of —, 18 —, and prove the claim for which the said action is brought.

*Where assets admitted* : 3. That, upon the said C. D. establishing his said claim, the defendant E. F. [*or as may be*]

may be at liberty, out of the assets of the said A. B., to pay to the said C. D. his costs of the said action, up to the time he had notice of the said decree [*Or, order*]: to be taxed.

*Or, where assets denied* : 3. That the costs of the said C. D. of the said action, up to the time he had notice of the said decree [*Or, order*], and his costs of this application, may be taxed; and that he may be at liberty to add the amount thereof to his said claim, and to prove for the same under the said decree [*Or, order*].

In Chancery.

(*Title.*)

We, G. H., of (*Place of business*), gentleman, the solicitor in this cause for the defendant E. F.—*If so*: and also his attorney in the action hereinafter mentioned—and the above named defendant E. F., of (*residence and addition*), severally make oath and say:

618.  
Affidavit by the personal representative, and his solicitor, in support of motion to restrain creditor at law.

And first, I the said G. H. for myself say, as follows:

1. On the — day of —, 18 —, C. D. brought an action in Her Majesty's Court of Queen's Bench [*or as may be*], against the said defendant E. F., as the executor [*Or, administrator*] of A. B., the testator [*Or, intestate*] in the pleadings of this cause named, to recover the sum of £—, alleged to be due to the said C. D. from the estate of the said A. B. [*or as may be*].

2. *State, concisely, the material proceedings in the action; as thus*: The said E. F. duly appeared to the said action; and issue has been joined therein, and notice of trial given for the next assizes to be holden at —, in the county of —.

3. The suit in which this affidavit is made was instituted on the — day of —, 18 —, by a creditor of the said A. B. [*or as may be*] for the administration of the estate of the said A. B.

4. By the decree [*Or, order*] dated the — day of —, 18—, made on the hearing of the said suit, the usual accounts are directed to be taken of the estate of the said A. B.: including an account of his debts.

5. *Prove service on the plaintiff at law of notice of the decree or order*: see *ante*, No. 37.

And I, the said E. F., for myself, say as follows:

6. The only assets of the said A. B. now in my hands consists of (*State what; as*: the sum of £— cash); and such assets are insufficient, in a due course of administration, to pay the claim of the said A. B. in the said action, and his costs thereof [*or as may be*].

Sworn (&c.: see *ante*, No. 13).

## SECTION II.—INTERLOCUTORY INJUNCTIONS, AND RESTRAINING ORDERS.

**619.**  
General form of  
notice of motion  
for an injunction.

*Formal parts : see ante, No. 53.*  
on the part of the plaintiff, that the defendant A. B., his [Or, defendants A, B, C. D., &c., their, and each of their] attorneys and agents [Or, officers, contractors, servants, workmen, and agents—or as may be], may be restrained, by the order and injunction of this Honorable Court, from (*State what : For examples see post, Nos. 620—621*) : until the hearing of this cause [or as may be], or until further order.

**620.**  
Notice of motion  
to restrain  
action at law.

*Proceed as in No. 619, ante, to Court,*  
from proceeding in the action at law commenced by the said defendant T. T. against the plaintiffs, as in the plaintiff's bill mentioned; and from commencing or prosecuting any other action or suit, or other proceeding, against the plaintiffs, or either of them, for the recovery of the mortgage debt in the bill mentioned : until further order.

**621.**  
Notice of motion  
to restrain  
interference  
with ancient  
lights.

*Proceed as in No. 619, ante, to Court,*  
from continuing to erect or raise the walls or building, now in course of erection by the defendants to the north of the plaintiff's premises, in the bill mentioned, to a greater height than the same wall or building now is : until, &c.

**622.**  
Notice of motion  
to restrain  
infringement of  
copyright.

*Proceed as in No. 619, ante, to Court,*  
from printing publishing, selling, or otherwise circulating such portion of the defendant's works, intituled "Mineral Statistics of the United Kingdom of Great Britain and Ireland, for the year 1865," in the plaintiff's bill mentioned, as is set forth in the statistics contained in the annual statements or publications published by, or on behalf of, the plaintiff, as in the plaintiff's bill mentioned; and from doing any other act or thing in invasion or infringement of the plaintiff's copyright in the said annual statements or publications, or any of them : until, &c.

**623.**  
Notice of motion  
to restrain  
execution for  
rent.

*Proceed as in No. 619, ante, to Court,*  
from taking any further proceedings, by distress or otherwise, to recover the rents and profits of the hereditaments and premises in the plaintiff's bill mentioned; and from putting in force and execution the distress levied by the defendant upon the goods and chattels of W. P., in the plaintiff's bill mentioned : until, &c.

*Proceed as in No. 619, ante, to Court,*  
from causing or permitting any sewage, or water polluted with sewage, to pass through the drains or channels under their control into the river C., in such manner as to render the water of the said river at or near the plaintiff's mill, in the bill mentioned, unfit for use by the plaintiff, or otherwise injurious to the health of the persons resident at the said mill: until, &c.

**624.**  
Notice of motion to restrain a local Board of Health from polluting a river.

*Proceed as in No. 619, ante, to Court,*  
from possessing himself of, getting in, or receiving, and from disposing of, charging, or incumbering, any part of the monies, credits property, assets, estate or effects of or belonging to the partnership business in the bill mentioned; and from incurring any debts or debt in respect of the said business, and from carrying on, or in any manner interfering in, or intermeddling with the said business, or any of the monies, property, assets, or affairs thereof, without the consent of the plaintiff: until, &c.

**625.**  
Notice of motion to restrain the getting in of partnership assets, or intermeddling with the business.

*Proceed as in No. 619, ante, to Court,*  
from making and selling, or making or selling, any blue or purple violet dye made according to the process discovered in the specification of the letters patent in the bill mentioned, or according to any process being a colorable imitation thereof; and from in any manner infringing the said letters patent: until, &c.

**626.**  
Notice of motion to restrain infringement of patent.

*Proceed as in No. 619, ante, to Court,*  
from prosecuting the actions of ejectment commenced by the defendants the I. R. Company, as in the plaintiff's bill mentioned, against the defendants the D. and S. R. Company, or either of such actions; and from commencing or prosecuting any other action or actions for obtaining possession of the lands purchased by the plaintiffs for the purposes of the said D. and S. R. Company: until, &c.

**627.**  
Notice of motion to restrain a public company.

*Proceed as in No. 619, ante, to Court,*  
from transferring on the register the ship marked or called No. 4, in the bill mentioned, to any person or persons; and also to restrain the said defendant, his servants and agents, from removing the said ship out of the jurisdiction of this Court: until, &c.

**628.**  
Notice of motion to restrain the transfer of a ship's register, and sailing of the ship.

**629.**  
Notice of motion to restrain infringement of trade mark.

*Proceed as in No. 619, ante, to Court,*

from affixing, or causing to be affixed, to any casks of wine shipped to their, or any of their order, or used by them, or any of them, the brand or mark of a crown, and the word Seixo, or any other combination of marks or words so contrived as, by colorable imitation, or otherwise, to represent the marks or brands used by the plaintiff; and from employing, or permitting to be employed, any marks or brands, or words or other designation, in respect of wines offered for sale by the defendants, or any of them, which shall be so contrived as to represent, or to induce a belief, that such wines are Crown Seixo, or the produce of the quinta do Seixo, in the plaintiff's bill mentioned; and also from describing, or offering for sale, the wines simply as Seixo wine; or otherwise using the word Seixo in respect of such wine, without clearly distinguishing the same from wine produced on the plaintiff's said quinta do Seixo: until, &c.

**630.**  
Notice of motion to restrain marrying ward of Court.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that A. B., of, &c., may be restrained, until further order, from intermarrying with the plaintiff C. D. [*or as may be*], and from having any intercourse or communication with the said C. D.

**631.**  
Notice of motion to restrain the felling of timber.

*Proceed as in No. 619, ante, to Court,*

from felling any timber or other trees standing or growing in the meadow, or in the hedge, in the plaintiff's bill mentioned; and from cutting the said hedge, or the underwood thereof: and from committing any other waste, or otherwise interfering with, the said meadow, or trees, or hedge: until, &c.

**632.**  
Certificate of bill filed.

*Formal parts.*

These are to certify, that the plaintiff's bill in this cause was regularly filed on the — day of —, 18 — (*If so*): and that the same was duly amended on the — day of —, 18 —: as appears by my book.

**633.**  
Notice of motion for substituted service of copy bill, and notice of motion for an injunction.

*Formal parts.*

on behalf of the plaintiff, that service of a printed copy of the plaintiff's bill, duly indorsed, together with a copy of the order hereon, upon A. B., at (*State where*), may be deemed good service upon the defendant C. D.; and that the plaintiff may at the same time serve notice of motion for an injunction on the — day of —, 18 —, in accordance with the prayer of the plaintiff's bill; and that service of such notice upon the said A. B. may be deemed good service upon the defendant C. D. And take notice (*as in No. 53*)

*Formal parts.*

on behalf of the plaintiff, for an interim order in the terms of the 4th paragraph of the plaintiff's bill, until after ——— the ——— day of ———; and for leave to serve notice of motion for that day, with the bill, before appearance [or as may be]. And take notice (as in No. 53).

634.  
Notice of motion to apply for an interim order, &c.

*Date, title, and introduction.*

And the plaintiff, by his counsel, undertaking to abide by any order this Court may make as to damages, in case the Court shall hereafter be of opinion that the defendant shall have sustained any by reason of this order which the plaintiff ought to pay; This Court doth order, that the defendant T. A. P. be restrained, until Saturday, the 2nd day of September next, from obtaining any payment, &c., &c.; and the plaintiff is to be at liberty to serve the defendant with the bill, and also, before answer, with notice of a motion to be made before this Court on Friday, the 1st day of September next.

635.  
Interim order.

*Formal parts: see ante, No. 53.*

on the part of the plaintiffs, that they may be at liberty to amend their bill, as they shall be advised [or as may be]: without prejudice to the notice of motion for an injunction in this cause; and that the costs of this application may be costs in the cause.

636.  
Notice of motion for leave to amend bill, without prejudice to notice of motion for an injunction.

*Formal parts: see ante, No. 53.*

on the part of the defendants, that the time within which the applicants may file their affidavits on the plaintiff's motion for an injunction may be enlarged until the ——— day of ———, 18 —; and that the time within which the plaintiff may file affidavits in reply, and serve notice of motion for a decree, may be enlarged until the ——— day of ———, 18 —; and that the costs of this application may be costs in the cause.

637.  
Notice of motion for leave to file affidavits on motion for injunction, and serve notice of motion for decree.

*Formal parts: see ante, No. 52a.*

Take notice, that his lordship the Chancellor [or as may be] has this day granted an injunction [Or, made an order that an injunction be awarded] in this cause, to (State terms of injunction or order).

638.  
Notice of injunction having been ordered.

And take also notice, that the said injunction will be issued [*Or, that the said order will be drawn up*], and served upon you, as soon as practicable.

**639.**  
Writ of Injunction.

In Chancery.

UPPER CANADA.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To

Greeting:

Whereas it has been represented to us, in our Court of Chancery, on the part of ——— complainant, that ——— has lately filed ——— bill of complaint in our said Court of Chancery, against you the said ———, to be relieved touching the matters therein complained of, in which bill it is stated, among other things, that your actings and doings in the premises are contrary to equity and good conscience: We therefore in consideration thereof, and of the particular matters in the said bill set forth, do strictly command you the said ———, and the persons before mentioned, and each and every of you, under the penalty of five thousand pounds, to be levied upon your lands, goods, and chattels, to our use, that you absolutely desist and refrain from ———.

Witness, the honorable ———, our Chancellor, this ——— day of ———, 18 —, in the ——— year of our reign.

———, Plaintiff's Solicitor.

———, Registrar.

**640.**  
Notice of motion to dissolve an interlocutory injunction.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that the injunction awarded by the order in this cause, dated the ——— day of ———, 18 —, may be dissolved. And take notice (*as in No. 53*).

**641.**  
Notice of motion to discharge, or irregularly order awarding injunction.

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that the order dated the ——— day of ———, 18 —, made in this cause, on the application of the plaintiff, whereby it was ordered that (*State what*), may be discharged for irregularity: with costs to be paid by the plaintiff to the said defendant. And take notice (*as in No. 53*).



## SECTION III.—CONTINUING OR GRANTING INJUNCTIONS AT THE HEARING.

The same as No. 639, *ante*.

**642.**  
Writ of perpetua injunction.

## SECTION IV.—CONSEQUENCES OF THE BREACH OF AN INJUNCTION, OR RESTRAINING ORDER.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that the defendant A. B. may stand committed to ——— prison, for breach of the injunction granted pursuant to the order dated the ——— day of ———, 18 — [Or, if writ not served, say: awarded to the plaintiff by the order dated the ——— day of ———, 18 —], to restrain the said defendant from (*State what*).—*If so*: and for breach of the undertaking given by the said defendant on, &c.; and that the said defendant may be ordered to pay the costs of this motion.

**643.**  
Notice of motion for committal for breach of injunction.

*Formal parts: see ante, No. 12.*

1. *Prove service of notice of the injunction, or restraining order: see ante, No. 45; or if a writ of injunction has been served, prove service thereof; as thus: I did on the ——— day of ———, 18 —, serve the above named defendant A. B. with the writ of injunction issuing out of, and under the seal of, this Honorable Court, now produced and shown to me, and marked A., by delivering a true copy of the said writ to, and leaving the same with, the said defendant A. B., personally, at (*State where*); and I, at the same time, produced and showed to the said defendant A. B. the said original writ so under seal as aforesaid. At the time of the service aforesaid, there was on the said original writ, and on the copy thereof so served as aforesaid, an indorsement in the words and figures following; that is to say: (*Set out a copy of the indorsement*).*

**644.**  
Affidavit in support of motion to commit.

2. *Prove that defendant has committed a breach.*

3. *Prove service of notice of motion for committal for the breach: see ante, No. 45.*

*Formal parts: see ante, No. 53.*

on the part of the defendant A. B., that upon his paying or tendering to the plaintiffs their costs of the order dated the

**645.**  
Notice of motion for discharge from custody.



— day of —, 18 —, and the costs of his contempt, and of this application: such costs to be taxed by the Master in case the parties differ: the defendant A. B. may be discharged out of the custody of the keeper of — Prison, as to his said contempt.

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## CHAPTER XXVIII.

### WRITS AND ORDERS IN THE NATURE OF INJUNCTIONS.

—:O:—

#### SECTION I.—STOP ORDERS.

**646.**  
Petition for a  
stop order.

*Title—and address: see ante, No. 54.*

The humble petition of A. B., of (*residence and addition*).

Showeth as follows:

1—3. *Show the assignor's interest in the fund in Court: see ante, No. 411, par. 1—3.*

4. *Show the assignment to, or other title of, the assignee; as thus:* By an indenture dated the — day of —, 18 —, and made between the said C. D., of the one part, and your petitioner of the other part, the said C. D., for the consideration therein mentioned, assigned his said one third share of the said £10,000 unto your petitioner, his executors, administrators, and assigns, absolutely, by way of sale [*Or, mortgage*]; and authorized him and them to receive and give discharges for the said share [*or as may be*].

5. *Describe the present state of the fund in Court; as thus:* The said sum of £10,000 is now standing in the name of the Accountant-General, in trust in this cause, "The account of G. D., and her children" [*or as may be*].

Your petitioner therefore humbly prays, that  
(*Describe the fund or share of fund to be restrained:*  
*See prayer of No. 411, ante; and post, 647—648.*  
*Or that (&c.: Conclude as in No. 55, ante).*

**647.**  
Notice of motion for a stop order on an entire fund in Court.

*Formal parts: see ante, No. 52.*

on the part of A. B., of (*residence and addition*), that the (*Describe the fund to be affected, and how it stands in the Accountant-General's books: according to his certificate; as thus: £—, standing in the name of the Accountant-General, in trust in this cause, "The account of C. D.,"*

Or, £—, cash in the bank on the credit of this cause,  
 "The account of C.D."),  
 to which the plaintiff C. D.

Or, defendant C. D.—Or, C. D., of (*residence and addition*)  
 is—*If so*: or may be or become—entitled, or any part  
 thereof,

*If so*: or any interest hereafter to accrue due on the  
 said stock, or any part thereof,  
 may not be transferred, sold, paid out, or otherwise disposed  
 of without notice to the said A. B. And take notice (*as in*  
*No. 53*).

*Formal parts: see ante, No. 53.*  
 on the part of A. B., of (*residence and addition*), that the one  
 third share to which the plaintiff C. D.

648.

The like, on a  
 share of a fund  
 in Court.

Or, defendant C. D.—Or, C. D., of (*residence and addition*)  
 is—*If so*: or may be or become—entitled of the (*Describe the*  
*fund, and cause, &c., as in No. 647, ante*), or any part thereof,

*If so*: or of any interest hereafter to accrue due on the  
 said annuities, or any part thereof  
 may not be transferred, sold, paid out, or otherwise disposed  
 of, without notice to the said A. B. And take notice (*as in*  
*No. 53*).

*Formal parts: see ante, No. 12.*

649.

Affidavit in  
 support of peti-  
 tion, or action.

1. 2. *Show titles of assignor and assignee: see ante, No. 646,*  
*par. 1—4.*

3. *Prove assignor's execution of the assignment; as thus: The*  
*said indenture is the — writing, marked A., now produced*  
*and shown to me. I saw the said C. D. execute the said in-*  
*denture. The name or signature "—," subscribed to*  
*the said indenture as one of the parties executing the same.*  
*is of the proper handwriting of the said C. D.; and the name*  
*or signature "—," subscribed to the attestation of*  
*such signature indorsed on the said indenture, is of my pro-*  
*per handwriting [Or, I am well acquainted with the hand-*  
*writing of the said C. D.: having seen him write. The*  
*name or signature "—," subscribed to the said inden-*  
*ture as one of the parties executing the same, is of the pro-*  
*per handwriting of the said C. D.].*

4. *In the case of a petition, prove service thereof, when neces-*  
*sary.*

5. *Show means of knowledge.*

**650.**  
Notice of mention for a further step order on assignment of interest by restraining party.

*Formal parts: see ante, No. 53.*  
on the part of L. M., of (*residence and addition*), that the (*Describe the fund, or share of fund, to be restrained: see ante, No. 647*), may not be transferred, sold, paid out, or otherwise disposed of, without notice to the said L. M.: instead of A. B., as directed by the order dated the — day of —, 18 — (*Former stop order*). And take notice (*as in No. 53*).

**651.**  
The like.

*Formal parts: see ante, No. 53.*  
on the part of L. M., of (*residence and addition*), that the said L. M. may be substituted for A. B., in the order dated the — day of —, 18 — (*Former stop order*) named, as the person to whom notice is to be given before any transfer, sale, payment out, or other disposition is made of the bank stock [*or as may be*], in the said order mentioned.

**652.**  
Petition, for the like order.

*Title—and address: see ante, No. 54.*

The humble petition of L. M., of (*residence and addition*).

Showeth as follows:

1. *Recite the existing stop order; as thus:* By an order dated the — day of —, 18 —, and made in this cause on the petition [*Or, if on summons, say: on the application*] of A. B., it was ordered that (*Set out so much of the order as imposed the restraint*).

2. *Show the title of the petitioner; as thus:* By an indenture dated the — day of —, 18 —, and made between the said A. B. of the first part, the said C. D. of the second part, and your petitioner of the third part, for the consideration therein mentioned the said A. B., with the privity of the said C. D., assigned, and the said C. D. assigned and confirmed, the said (one third share of the said) bank stock unto your petitioner, his executors, administrators, and assigns, by way of absolute sale [*Or, mortgage*]; and thereby authorized him and them to receive and give discharges for the same.

3. The said £—, bank stock, is now standing in the name of the Accountant-General, in trust in this cause [*or as may be*].

Your petitioner therefore humbly prays, that (the share of the said C. D., of) the said £—, bank stock [*or as may be*], or any part thereof—*If so:* or any interest hereafter to accrue thereon or any part thereof—may not be transferred, sold, paid out, or otherwise disposed of, without notice to your petitioner: instead of the said A. B., as directed by the said order of the —

day of —, 18 — [*Or, that your petitioner may be substituted for the said A. B., as the person to whom notice is to be given before any transfer, sale, payment out, or other disposition is made of the said £ —, bank stock [or as may be]—If so: or the interest to accrue due thereon.*

Or that (*&c.*: *Continue as in No. 55, ante, to the end*).

*Formal parts: see ante, No. 12.*

*Show title of the applicant: see ante, No. 652, pars. 1, 2.*

**653.**  
Affidavit in support of summons, or petition.

2. *Prove execution by the assigning parties; as thus:* The said indenture dated the — day of —, 18 — (*assignment*), is the — writing marked B., now produced and shown to me. I saw the said A. B., and C. D., respectively execute the said indenture marked B. The name or signature “—,” subscribed to the said indenture as one of the parties executing the same, is of the proper handwriting of the said A. B. The name or signature “—,” subscribed to the said indenture as another of the parties executing the same, is of the proper handwriting of the said C. D. The name or signature “—,” subscribed to the attestation indorsed on the said indenture of the signatures thereto of the said A. B., and C. D., is of my proper handwriting. [*Or, I am well acquainted with the handwriting of the said A. B. and C. D., respectively: having seen them write. The name or signature “—,” subscribed to the said indenture as one of the parties executing the same, is of the proper handwriting of the said A. B.; and the name or signature “—,” subscribed to the said indenture as another of the parties executing the same, is of the proper handwriting of the said C. D.*]

3. *Show means of knowledge.*

*Formal parts: see ante, No. 53.*

on the part of C. D., in the order dated the — day of —, 18 —, named [*Or, C. D., of (residence and addition)*], that the (said) order dated the — day of —, 18 —, whereby it was ordered [*Or, that so much of the order dated the — day of —, 18 —, as directs*] that (*Recite, concisely, the order, or restraining clause*) may be discharged—*If so: with costs to be paid by the said A. B. to the said C. D. And take notice (as in No. 53).*

**654.**  
Notice of motion to discharge a stop order.

## CHAPTER XXIX.

### THE WRIT OF NE EXEAT PROVINCIA, OR WRIT OF ARREST

—:0:—

**655.**  
Prayer for the writ, in a bill.

That Her Majesty's writ of *ne exeat provincia* may issue out of, and under the seal of, this Honorable Court, to restrain the said defendant C. D. from departing out of the jurisdiction of this Honorable Court.

**656.**  
Notice of motion for the writ

#### *Formal parts.*

on behalf of the plaintiff, that a writ or writs of *ne exeat provincia* may issue against the defendant C. D.: to be marked for security in £—.

A copy of the bill, and affidavit in support, accompany.

**657.**  
Affidavit in support of application for the writ.

In Chancery.

(*Title of the cause.*)

I, A. B., of (*residence and addition*), the above named plaintiff, make oath and say as follows:

1. *State, concisely, the institution and object of the suit; as thus:* The bill in this cause was filed by me on the — day of —, 18 —, against the above named defendant A. B., to obtain an account of all monies received by the said defendant for or on my account, or for my use, as my agent in the management of my estate called E., in the county of —, as in the said bill mentioned, and of the application of such monies; and for payment by the said defendant to me of what, on taking such account, should be found due from him to me.

2. *State the existence of a debt due from the defendant; as thus:* The two accounts now produced and shown to me, and marked respectively F. and G., have been rendered to me by the said defendant, and purport to be his accounts as such agent as aforesaid. It appears by the said accounts that the said defendant is indebted to me in the sum of £—, on balance thereof. I have investigated the said accounts: and I positively say that [*Or, and to the best of my belief*] the said defendant C. D. is now justly and truly indebted to me in the sum of £—, and upwards, on the balance of the said accounts [*or as may be*].

3. *Show defendant's intention to go abroad; and deponent's means of knowledge.*

4. From the facts aforesaid, and for the reasons hereinbefore stated, I verily believe that the said defendant C. D., unless he be forthwith apprehended, will depart out of the jurisdiction of this Honorable Court; and that the debt due to me as aforesaid from the said defendant will be in danger of being lost to me by the said defendant quitting the said jurisdiction.

Sworn (&c.: *see ante*, No. 12).

## CHAPTER XXX.

### RECEIVERS.

—:O:—

#### SECTION I.—MODE AND EFFECT OF APPOINTMENT OF A RECEIVER.

That some proper person or persons may be appointed by this Honorable Court to receive the rents and profits of the real estate of the said testator; and to collect and get in his outstanding personal estate [*or as may be*].—And that the defendant A. B. may be restrained, by the order and injunction of this Honorable Court, from in any way interfering with the said real and personal estate, or any part thereof, or with any rents or profits, dividends or interest, arising from any part of the said real and personal estate.

658.  
Prayer for a receiver: and injunction in a bill.

*Formal parts: see ante*, No. 53.

on the part of the plaintiff, that a proper person [*Or, that L. M., of (residence and addition), on giving security*] may be appointed (*State for what purpose; as thus:*

659.  
Notice of motion for a receiver.

to receive the rents and profits of the real and leasehold estates, and to collect and get in the outstanding personal estate, of A. B., the testator in the bill named):

*If of real or leasehold estates, add:*

And that the tenants of the said estates may be ordered to attorn, and pay their rents in arrear and growing rents to such receiver:

*If of outstanding personal estate, add:*

And that the defendant C. D., the executor of the will [*Or, administrator of the personal estate*] of the said A. B., may be ordered to deliver over to such receiver all securities in his hands for such outstanding personal

estate, together with all books and papers relating thereto (*or as may be*):

And that such receiver may be directed from time to time to pass his accounts, and pay his balances into the bank, to the credit of this cause. And take notice (*as in* No. 53).

660.  
Notice of motion for a receiver, pending actions at law.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that some proper person may be appointed to receive the rents and profits of the real estates of M. E., the intestate in the plaintiff's bill named: until such time as the plaintiff's title shall be determined in some or one of the actions at law in the bill mentioned; and that the same person may be appointed to receive the rents and profits of the leasehold estates of the said M. E.; and to collect and get in her outstanding personal estate, pending the litigation as in the said bill mentioned.—Direction to the tenants: *see ante, No. 659.* And that the plaintiff may deliver over to such person so to be appointed all securities in his hands for such outstanding estate, together with all books and papers relating thereto.—Direction for receiver to pass his accounts, and pay in balances: *see ante, No. 659.*

661.  
Petition by a defendant, for the appointment of a receiver.

*Title—and address: see ante, No. 54.*

The humble petition of the defendant C. D.

Showeth as follows:

1. *State the institution and object of the suit.*
2. *State the decree, and subsequent material proceedings.*
3. *State the special grounds for the appointment of a receiver.*

Your petitioner therefore humbly prays, that a proper (*Continue as in* No. 659, *ante, to the end*).  
Or that your lordships (*Continue as in* No. 55, *ante*).

662.  
Notice of motion for leave for a party to the cause to propose himself as receiver.

*Format parts: see ante, No. 53.*

on the part of the plaintiff [*Or, defendant* A. B.], that he may be at liberty to propose himself as the person to be appointed receiver under the decree [*Or, order*] dated the —, 18 —; but without giving security: he undertaking to act without salary [*or as may be*].

663.  
Underwriting of a warrant for the appointment of a receiver.

For the appointment of a receiver under the decree in this cause dated —, on — next, at — a.m. [*Or, p.m.*], and A. B., of the town of —, (Esquire), is proposed as the said receiver; and C. D., of the same place —, and E. F., of the same place —, are proposed as his sureties.

In Chancery.

(Short style of cause.)

663a.  
Counter pro-  
posal for ap-  
pointment of  
receiver.

Take notice, that I will, on the — day of —, when the warrant for the appointment of a receiver in this cause, taken out by —, and served upon —, is attendable, propose that instead of the said A. B., proposed by — as receiver, C. D., of —, (Esquire), be appointed; and I propose as his sureties E. F. of — and G. H. of —.

Dated, &amp;c.

Yours, &amp;c.,

To K. S., Esq.,

I. J.,

Solicitor for —.

Solicitor for —.

Formal parts: see ante, No. 12.

664.  
Affidavit of the  
nature and  
value of the  
property over  
which the  
receivership is  
to extend.

1. *Describe the property, succinctly; as thus:* The real and leasehold estates of the testator A. B., in the decree [Or, order] in this cause dated the —, 18 —, mentioned, consist of the short particulars set forth in the first column of the first part of the schedule hereto. The said estates are in the occupation of the several persons, and at the annual rents, specified in the second and third columns of the said first part. The arrears of rent specified in the fourth column of the said first part are also now due. The outstanding personal estate of the said testator consists of the particulars set forth in the first column of the second part of the said schedule; and the values thereof are set forth in the second column of the said second part.

2. *Show means of knowledge.*

The Schedule above referred to.

*First Part.*

Particulars of estate.	Tenant's name.	Annual rent.	Arrears due.
The Home Farm, at Uxbridge, Middlesex. &c.	John Jones. &c.	£ s. d. 300 0 0 &c.	£ s. d. 75 0 0 &c.

*Second Part.*

Particulars of outstanding estate.	Value.
Book debts .. .. . &c.	£ s. d. 250 0 0 &c.



645.  
Affidavit of at-  
tachment of pro-  
posed receiver.

*Formal parts: see ante, No. 12.*

1. I have for — years last past known and been well acquainted with L. M., of (*residence and addition*), the person proposed to be appointed in this cause the receiver of the rents and profits of the real estate, and to get in the outstanding personal estate, of the testator A. B. [*or as may be*].

2. The said L. M. is (*State the trade, business, or profession, if any, of the proposed receiver; and where carried on, and for how long, to the deponent's knowledge*).

3. The said L. M. is a person of respectability and integrity, and of good credit; and in my judgment he is a fit and proper person to be appointed receiver of the said rents and profits, and outstanding estate [*or as may be*].

646.  
Receiver's  
recognizance.

A. B. of —, C. D. of —, and E. F. of —, before our Sovereign Lady the Queen in her Court of Chancery for Upper Canada personally appearing, do acknowledge themselves, and each of them doth acknowledge himself to owe to —, Esq., Master of the said Court at —, the sum of — of lawful money of Canada, to be paid to the said —, his executors, administrators, and assigns, and unless they do pay the same, they, the said A. B., C. D., and E. F., are willing, and do grant, and each of them is willing, and doth grant for himself, his heirs, executors and administrators, that the said sum of — shall be levied, recovered, and received of, and from them, and each of them, wheresoever the same shall or may be found.

Witness the Honorable P. M. M. S. V., Chancellor of our said Court at Toronto, the — day of —, in the — year of Her Majesty's reign, and in the year of our Lord, 18 —.

Whereas by an order of the Court of Chancery for Upper Canada, made in a cause wherein — are plaintiffs and — defendants, and bearing date the — day of —. It was ordered that it should be referred to the Master of this Court at — to appoint a proper person to receive, (*Or, upon the above bounden A. B. first giving security to the satisfaction of the said Master, he should be appointed receiver of*) the rents and profits of the real estate, and to collect and get in the outstanding personal estate of — in the said order named. And whereas the said Master hath appointed and approved of the above bounden A. B. and C. D. and E. F., as sureties for the said A. B., and hath also approved of the above written recognizance with the underwritten condition as a proper security to be entered into by the said A. B. and C. D. and E. F., pursuant to the said order and the general orders of the said Court in that behalf, and in testimony of such approbation, hath signed an allowance in the margin hereof.

Now the condition of the above written recognizance is such, that if the said A. B. do, and shall duly account for all and every, the sum and sums of money which he shall so receive on account of the rents and profits of the real estates and in respect of the personal estate of the said X. Y., and do and shall duly pay the balances which shall from time to time be certified to be due from him at such periods as may be directed.

Then the above recognizance shall be void and of none effect, otherwise the same is to be and remain in full force and virtue.

Taken and acknowledged at ———, in the city of ———, this ——— day of ———, before me.

A. B. [L. S.]

C. D. [L. S.]

E. F. [L. S.]

In Chancery.

(Title of the cause.)

We, C. D., of (*residence and addition*), and E. F., of, &c., the proposed sureties for L. M., of (*residence and addition*), the person proposed to be appointed receiver in this cause, severally make oath, and say as follows:

**667.**  
Affidavit of  
sureties, as to  
their solvency.

1. First, I the said C. D., for myself say, that I am a freeholder (*Or, householder*) well and truly worth the sum of £—— (*Insert the amount for which he is to be bound*), after payment of all my just debts and liabilities.

2. And I the said E. F., for myself say, that I am (*&c. : as above, to the end*).

Sworn (*&c. : see ante, No. 14*).

In Chancery.

(Style of cause.)

I hereby appoint A. B. of ———, Esquire (*or as may be*), receiver in this cause, (*If without compensation, add : but no compensation is to be allowed to him for his services as such receiver*).

**668.**  
Appointment of  
receiver, under  
Order 262.

Dated at ——— this ——— of ———.

C. D., Judge.

*Or,*

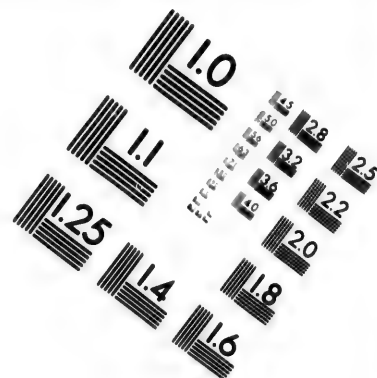
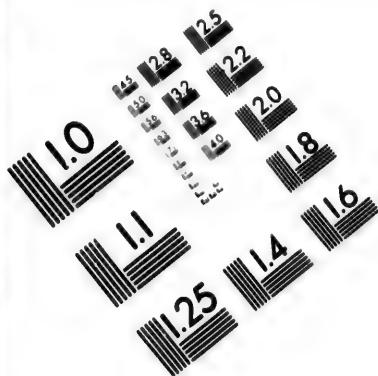
E. F., Master at ———.

In Chancery.

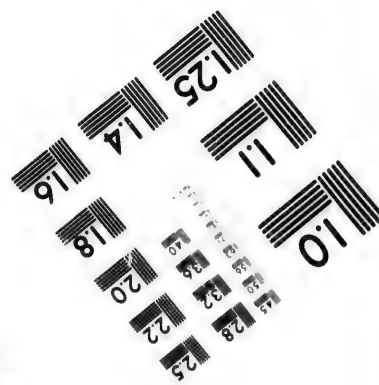
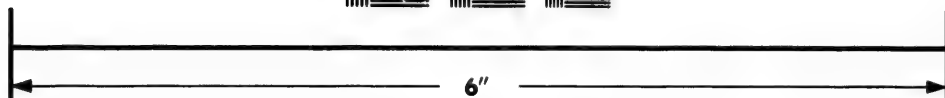
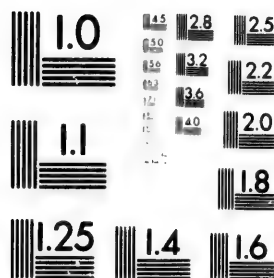
(Title.)

I, L. M., of (*residence and addition*), the receiver appointed

**669.**  
Notice to  
tenant to attorn  
to receiver.

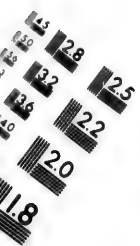


# IMAGE EVALUATION TEST TARGET (MT-3)



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in this cause of the rents and profits of the real estate of A. B., the testator in the bill in this cause named [*or as may be*], hereby give you notice and require you to attorn and become tenant to me for (*Describe the property; as thus: the messuage or tenement, garden, and outbuildings, with the appurtenances, situate at A., in the county of B.*), now occupied by you, and for such other part or parts of the said real estate as is or are in your occupation; and to pay to me your rent in arrear, and growing rent, for the said premises. Dated this — day of —, 18 —.

L. M.

To W. P., of (*residence and addition*).

670.  
Attornment  
thereon.

In Chancery.

(Title.)

I, W. P., of (*residence and addition*), attorn and become tenant to L. M., the receiver appointed in this cause, for (*Describe the property: see ante, No. 669*), as the same are now in my occupation: to hold the same at and under the same rent, and subject to the same covenants and conditions, as I now hold the same. And I have this day paid to the said L. M. the sum of (one shilling) for and on account, and in part payment of the said rent. Dated this — day of —, 18 —.

W. P.

Witness:

V. N., of (*residence and addition*).

671.  
Notice of mo-  
tion for tenant  
to attorn, and  
pay rent.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that W. P., of (*residence and addition*), may be ordered, within seven days after service, to attorn and become tenant to L. M., the receiver appointed in this cause, for, or in respect of, the (*Describe the property: see ante, No. 669*), now occupied by the said W. P.; and pay his rent in arrear, and growing rent for the same, to the said L. M.

672.  
Notice of mo-  
tion, for tenant  
to attorn, and  
for occupation  
rent to be paid.

*Proceed as in No. 671, ante, to the said W. P.; and continue thus:*

And that an annual value, by way of rent, may be set upon the said premises during the time the said W. P. has been in the possession or occupation thereof; and that the said W. P. may be charged therewith.

## SECTION II.—POWERS, DUTIES, AND LIABILITIES OF RECEIVERS.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that L. M., the receiver appointed in this cause, may be at liberty to distrain upon the goods and chattels of E. F., of (*residence and addition*), for the sum of £—, being arrears of rent due from him on the —, 18 —, in respect of the (*Describe the property: see ante, No. 669*)—*If so*: and that the said distress may be made in the name of the defendant C. D.; and that he may be indemnified in respect thereof out of the estate of the testator A. B. [*or as may be*]. And take notice (*as in No. 53*).

673.

Notice of motion for leave for receiver to distrain.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that L. M., the receiver appointed in this cause, may be at liberty to bring and prosecute an action, in one of Her Majesty's Courts at —, in the name of the defendant W. J., as executor of the will of G. S., the testator in this cause, to obtain payment of £—, due for rent from the said W. J. to the said testator's estate; and that the defendant W. J. may be indemnified therein out of the said estate. And take notice (*as in No. 53*).

674.

Notice of motion for leave for receiver to bring an action for arrears of rent.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that the defendant E. A. may be ordered, on or before the —, 18 —, or within four days after service, to pay to L. M., the receiver appointed in this cause, all monies received by the said defendant since the appointment of such receiver: the amount to be verified by affidavit. And take notice (*as in No. 53*).

675.

Notice of motion, for payment to receiver of monies received by defendant.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that L. M., the receiver appointed in this cause, may be at liberty to cut and fell the trees specified in the affidavit of C. D., filed the —, 18 —, and the exhibit marked A. thereto; and to sell the same by public auction, according to the usual particulars and conditions of sale in like case; and that the said receiver may receive the purchase monies for the said trees, and bring the amount thereof into his account as such receiver. And take notice (*as in No. 53*).

676.

Notice of motion for leave for receiver to cut and sell timber.

**377.**  
Other notices of  
motion relating  
to the manage-  
ment of prop-  
erty comprised  
in a receiver-  
ship

See the following Forms, *ante*: which can be readily adapted to a receivership:—

*Action*: For leave to bring, 512; or defend, 514; or compromise, 517.

*Business*: For leave to carry on, 515.

*Claim*: For leave to compromise, 517.

*Debt*: For leave to pay, 516.

*Lease*: For leave to obtain renewal of, 519.

To approve agreement to grant, 520.

*Repairs, or Drainage works*: For leave to execute, 518.

*Suit*: For leave to institute, 512; or defend, 514; or compromise, 517.

### SECTION III.—RECEIVERS' ACCOUNTS.

**378.**  
Affidavit by re-  
ceiver, verify-  
ing his account.

In Chancery.

(Title.)

I, L. M., of (*residence and addition*), the receiver appointed in this cause, make oath and say as follows:

1. The account contained from page — to page —, both inclusive, in each of the two several papers marked with the several letters A. and B., produced and shown to me at the time of swearing this my affidavit, and purporting to be my account of the rents and profits of the real estate, and of the outstanding personal estate of A. B. the testator [*Or, intestate*] in this cause, from the — day of —, 18 —, to the — day of —, 18 —, both inclusive, doth contain a true account of all and every sum and sums of money received by me, or by any other person or persons by my order, or, to my knowledge or belief, for my use, on account or in respect of the said rents and profits, accrued due on or before the — day of —, 18 —, or on account or in respect of the said personal estate: other than and except what is included as received in my former account [*Or, accounts*] sworn to by me.

2. The several sums of money mentioned in the said account hereby verified to have been paid and allowed, have been actually and truly so paid and allowed for the several purposes in the said account mentioned.

3. The said account is just and true in all and every the items and particulars therein contained, according to the best of my knowledge and belief.

Sworn (&c. : *see ante*, No. 13).

In Chancery.

(Title.)

The first [or as may be] account of L. M., the receiver appointed in this cause by [Or, pursuant to] an order made in this cause, dated the — day of —, 18 —, to receive the rents and profits of the real estate, and to collect and get in the outstanding personal estate of A. B. the testator [Or, intestate] in this cause named: from the — day of —, 18 —, to the — day of —, 18 —.

679.  
Account of  
receiver: re-  
ferred to in No.  
678.

## REAL ESTATE.—RECEIPTS.

No. of item	Date when received.	Tenant's names	Description of premises	Annual rent	Arrears due at — 18 —	Amount due at — 18 —	Amount received	Arrears remaining due	Observations
				£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	
1		John Jones ..	Home Farm, in the Parish of Norton, in the County of Oxford.						
2		Thomas Jones.	House at Norton aforesaid.						

## PAYMENT AND ALLOWANCES ON ACCOUNT OF REAL ESTATE.

No. of item	Date of payment or allowance	Names of persons to whom paid or allowed	For what purpose paid or allowed	Amount
				£ s. d.
1		Sun Fire Office ..	One year's insurance of —, due — ...	
2		Thomas Carpenter	Bill for repairs at house let to Thomas Jones	
3		James Francis ..	Allowance for a half-year's income tax, due —, ... ..	
Total payments £				

## RECEIPTS ON ACCOUNT OF PERSONAL ESTATE.

No. of item	Date when received	Names of persons from whom received	On what account received.	Amount received
				£ s. d.

## PAYMENTS AND ALLOWANCES ON ACCOUNT OF PERSONAL ESTATE.

No. of item	Date when paid or allowed	Names of persons to whom paid or allowed	For what purpose paid or allowed	Amount paid or allowed
				£ s. d.



## SUMMARY:

	£ s. d.	£ s. d.
Amount of balance due from receiver on account of real estate on last account.....		
Amount of receipts on the above account of real estate .....	£ s. d.	
Balance of last account paid into Court .....		
Amount of payments and allowances on the above account of real estate....		
Amount of receiver's costs of passing this account as to real estate .....		
Balance due from the receiver on account of real estate.....	£	
Amount of balance due from receiver on last account of personal estate.....		
Amount of receipts on the above account of personal estate .....	£ s. d.	
Balance of last account paid into Court .....		
Amount of payments and allowances on the above account of personal estate		
Amount of receiver's costs of passing this account as to personal estate.....		
Balance due from the receiver on account of personal estate.....	£	

## 680.

Notice of motion to compel receiver to pay balance into Court.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that L. M., the receiver appointed in this cause, may be ordered, on or before the — day of —, 18 —, or within four days after service, to pay into the bank, to the credit of this cause [*or as may be*], the sum of £ —, by the Master's report dated the —, 18 —, certified to be due from him on passing his account therein mentioned; and that the said L. M. may be ordered to pay the costs of this application.— And take notice (*as in No. 53*).

## 681.

Notice of motion for leave to put recognizance in suit.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that he may be at liberty [*Or, that the defendant C. D., the executor of the will of A. B., the testator in this cause—or as may be—may be ordered*] to put in suit the recognizance, dated the — day of —, 18 —, entered into by L. M., the (late) receiver in this cause, together with C. D. and E. F., his sureties. And take notice (*as in No. 53*).

## SECTION IV.—DISCHARGE OF RECEIVER.

## 682.

Petition to discharge receiver, and vacate recognizance.

*Title—and address: see ante, No. 54.*

The humble petition of the plaintiff [*or as may be*].

Showeth as follows:

1. *Recite decree or order appointing receiver, subject to his giv-*

*ing security, and the Master's report of such security having been given—Or the decree or order directing a proper person to be appointed receiver, and the subsequent order appointing such person: see ante, No. 659.*

2. *State to what time the receiver has passed his accounts, and accounted for his balances; as thus:* Pursuant to the said decree, &c., the said L. M. has passed his accounts as such receiver to the — day of —, 18 —; and has paid, in the manner thereby directed, the balances from time to time certified to be due from him on his said accounts.

3. *State why a receiver has ceased to be necessary; as thus:* By an order dated the — day of —, 18 —, C. D. and E. F. have been appointed trustees of the real estate of the testator G. H., and such estate has been conveyed to and vested in them, upon the trusts of his will. By reason thereof, it is expedient that the appointment of a receiver of the said estate should be discontinued.

Your petitioner therefore humbly prays, that the said L. M. may be discharged from being receiver as aforesaid; and that he may be ordered to pass his final account as such receiver, and pay the balance certified to be due from him thereon into the bank, to the credit of this cause [*or as may be*]; and that thereupon the recognizance, dated the —, 18 —, entered into by the said L. M., together with C. D. and E. F. as his sureties, may be vacated.—*Add, if desired, a clause as to the costs; as thus:* And that the costs of all proper parties of this application, and consequent thereon, may be taxed as between solicitor and client; and that the said L. M. may be directed to pay such costs; and be allowed the same on passing his said account.

Or that (*Continue as in No. 55, ante, to the end*).

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that L. M., the receiver appointed in this cause, may be discharged; and that he may be ordered (*Continue as in prayer of No. 682, ante, to said account*). And take notice (*as in No. 53*).

683.  
Notice of motion to discharge receiver.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that the recognizance dated the — day of —, 18 —, entered into by L. M., the receiver in this cause, together with C. D. and E. F. as his sureties, may be vacated. And take notice (*as in No. 53*).

684.  
Notice of motion to vacate receiver's recognizance.

## SECTION V.—LIABILITIES AND RIGHTS OF SURETIES.

**653.**  
Notice of motion for receiver to give a new security on death or bankruptcy of a surety.

*Formal parts: see ante, No. 53.*  
on the part of the plaintiff [*or as may be*], that L. M., the receiver appointed in this cause, may be ordered to give a new security duly to account for what he shall receive as such receiver: C. D., one of his sureties hereinafter named, having died [*Or, having been adjudged bankrupt*]; and that such security may be approved by the Judge. And that the said L. M. may be ordered to pass his accounts up to the date of such new security; and pay the balance certified to be due from him thereon into the bank, to the credit of this cause [*or as may be*]. And that, upon such new security being given, and payment in manner aforesaid of the said balance, the recognizance dated the —, 18 —, entered into by the said L. M., together with the said C. D. and E. F. as his sureties, may be vacated.

**654.**  
Notice of motion by surety, for leave to attend the passing of receiver's account.

*Formal parts: see ante, No. 53.*  
on the part of C. D., one of the sureties in this cause for L. M., the receiver appointed therein, that the said C. D. may be at liberty to attend, at his own expense, the passing of the accounts of the said L. M. as such receiver [*or as may be*]. And take notice (*as in No. 53*).

## CHAPTER XXXI.

## PAYMENT OF MONEY, AND TRANSFER OF STOCK INTO COURT.

—:O:—

**657.**  
Precipe for direction to bank to receive money referred to in Order 353, being schedule O mentioned in that order.

In Chancery.

(*Short style of cause.*)

Required, a direction to the bank to receive from — \$ —, payable into the Court to the credit of this cause, under — dated —, (*or as the case may be*).

A. B., Defendant's Solicitor,

(*Or as the case may be*).

(*Date.*)

*Formal parts : see ante, No. 11.*

1. I have cast up the several items set forth in the first and second schedules [or as may be] to the answer of the defendant A. B. filed in this cause on the — day of —, 18 —.

658.  
Affidavit of having cast up schedules to answer, and of balance due thereon.

2. The items in the said first schedule [or as may be] amount to the sum of £1000, and no more; and the items in the said second schedule [or as may be] amount to the sum of £600, and no more.

3. The said sum of £600 being deducted from the said sum of £1000, there remains a balance or sum of £400: which sum of £400 appears by the said answer and schedules to be due from the said defendant A. B. to the estate of C. D., the testator in the plaintiff's bill named [or as may be].

*Formal parts : see ante, 11.*

1. I have cast up the several items set forth in the account marked A., left in Chambers by the defendant A. B., and verified by his affidavit filed in this cause on the — day of —, 18 —.

659.  
Affidavit of having cast up an account, and of the balance due thereon.

2. The items on the receipt side of the said account amount to the sum of £1000, and no more; and the items on the payment side of the said account amount to the sum of £600, and no more.

3. The said sum of £600 being deducted from the said sum of £1000, there remains a balance or sum of £400: which sum of £400 appears by the said affidavit and account to be due from the said defendant A. B. to the estate of C. D., the testator in the plaintiff's bill named [or as may be].

*Formal parts : see ante, No. 11.*

1. The (Describe the cash : according to the order directing the payment in; as thus : interest accrued on the £—, in the order made in this cause [Or, matter] dated the — day of —, 18 —, mentioned, previous to the transfer thereof thereby directed) and which pursuant to the said order is to be paid into the bank to the credit of this cause [or as may be], amounts to the sum of £—, and no more.

660.  
Affidavit of amount of cash to be paid into Court, pursuant to order.

## CHAPTER XXXII.

### PAYMENT OF MONEY, AND TRANSFER OF STOCK OUT OF COURT.

—:O:—

**691.**  
 Proceipe for  
 cheque referred  
 to in Order 350,  
 being schedule  
 O referred to in  
 that order.

In Chancery.

(*Short style of cause.*)

Required a cheque for \$—— [with \$—— interest thereon from —— to —— (*being the period, if any, for which interest is payable under the order but which has not been already taken into account and computed*) ], payable to ——; and the following papers are produced herewith (*naming the decrees, reports, &c., showing the party's right to the cheque, thus:*

Decree dated ——.

Report dated ——, &c.)

A. B., Plaintiff's Solicitor,  
 (Or as the case may be).

(*Date.*)

**692.**  
 Affidavit of  
 amount of res-  
 due of a fund:  
 to be dealt with  
 by the Regis-  
 trar or Account-  
 ant-General.

*Formal parts: see ante, No. 11.*

1. The residue of the (*Describe what: according to the decree or order; as thus:* sum of £——, Dominion Stock, in the decree [*Or, order*] dated the —— day of ——, 18 —, mentioned, after the sale of so much thereof as, with the cash in the bank on the credit of this cause, was sufficient to raise the sum of £——), amounts to the sum of £——, and no more.

**693.**  
 Notice of mo-  
 tion for pay-  
 ment of an  
 incumbrance  
 out of a fund in  
 Court.

*Formal parts: see ante, No. 53.*

on the part of C. D., of (*residence and addition*), that the sum of £——, principal money due to him on the security of a mortgage dated the —— of ——, 18 —, from A. B., together with interest thereon at the rate of £—— per cent. per annum from the —— of ——, 18 —, and the costs of the said C. D. of this application, may be raised and paid to the said C. D. out of the £——, Dominion Stock, and £——, cash, remaining on the credit of this cause, "The account of A. B., and his incumbrancers."

Title—and address : see ante, No. 54.

The humble petition of A. B., of (*residence and addition*), and C., his wife.

Showeth as follows :

694.  
Petition of husband and wife, for payment to him of fund standing to her separate account.

1. *Show how the account has been raised ; as thus :* Pursuant to an order dated the — day of —, 18 —, the sums of £—, Dominion Stock, and £—, cash, were carried over in this cause [*Or, matter*] to "The account of C. D., an infant," and such cash was afterwards invested in the purchase of £— like stock ; and the interest which has since accrued on the said sums of annuities has been from time to time laid out in like stock.

2. *Show the present state of the fund ; as thus :* The said stock, cash, and interest are now represented by the sums of £—, Dominion Stock, and £—, cash, standing to the credit of this cause [*Or, matter*], the said account [*or as may be*].

3. *Show the identity, marriage, and majority of the wife ; as thus :* Your petitioner C. B. is the same person as C. D., in the said order named. On the — of —, 18 —, your petitioner C. B. attained her age of twenty-one years ; and on the — of —, 18 —, your petitioners intermarried.

4. *State whether there is or not a settlement as thus :* No settlement or agreement for a settlement whatsoever was made before or upon, or has been made since, the marriage aforesaid of your petitioners.—*Or, if there was a settlement or agreement, add, if so :* other than a certain settlement [*Or, agreement*] dated the — of —, 18 — ; but which does not effect the said stock and cash, or any portion thereof.

Your petitioners therefore humbly pray, as follows :

1. That the said £—, stock, may be sold.
2. That their costs of this application may be taxed, as between solicitor and client.
3. That out of the proceeds of such sale, and the said £—, cash, and any interest to accrue on the said annuities, the said costs to their solicitor be paid.
4. That the residue of the said proceeds, cash, and interest may be paid to your petitioner A. B., in right of your petitioner C., his wife.  
Or that (*Conclude as in No. 55, ante*).

*Formal parts : see ante, No. 53.*

on the part of A. B., of (*residence and addition*), and C., his wife, late, and in the order dated the — of —, 18 —, described as C. D., an infant :

695.  
Notice of motion by husband and wife, for payment to him of fund standing to her separate account.

1. That the £——, Dominion Stock, standing in the name of the Registrar on the credit of this cause [*Or, matter*], "The account of C. D., an infant" [*or as may be*], may be sold.

2. That the costs of this application, as between solicitor and client, may be taxed: or ascertained at Chambers.

3. That out of the proceeds of such sale, and the £——, cash, in the bank on the like credit, and any interest to accrue on the said stock, the said costs to the applicants' solicitor be paid.

4. That the residue of such proceeds, cash, and interest may be paid to the applicant A. B. in right of the applicant C., his wife. And take notice (*as in* No. 53).

**698.**  
Affidavit in support of petition for payment to husband of fund standing to wife's separate account.

In Chancery.

(Title.)

We, E. F., of (*Place of business*), gentleman, and A. B., of (*residence and addition: as in petition or summons*), and C., his wife, severally make oath, and say as follows:

And first, I, the said E. F., for myself say:

1. I am the solicitor for the said deponents A. B., and C., his wife, in the matter of the application made by them by petition presented [*Or, by motion*] on the —— of ——, 18 —, in this cause [*Or, matter*]; and I am well acquainted with the said A. B., and C., his wife [*or as may be*].

2. The said C. B. is the same person as "C. D., an infant," in the order in this cause [*Or, matter*] dated the —— of ——, 18 —, named; and the said C. B. is also the same person as "C., daughter of H. and L. D." [*or as may be*].

And we the said A. B., and C., his wife, for ourselves say:

3. On the —— of ——, 18 —, we intermarried at the parish church of W., in the county of Y.; and we are the same persons as A. B. and C. D., respectively named in the paper writing now produced and shown to us, and marked B., and purporting to be a certified copy of an entry in the register book of marriages kept for the said parish of W., for the year 18 — [*or as may be*].

4. No settlement or agreement for a settlement whatsoever was made before or upon, or has been made since our said marriage—*If so*: other than and except the settlement [*Or, agreement for a settlement*] now produced and shown to us, and marked D., and dated the —— of ——, 18 —.

*If there is a settlement, or agreement for a settlement, add, where the application is made by summons:*

And I, the said E. F., for myself, further say:

5. I have carefully perused the said settlement [*Or agreement for a settlement*] dated the ——, of ——, 18 —,

and which is also now produced and shown to me, and marked D.; and, according to the best of my judgment, the (*Describe the funds proposed to be dealt with*) are not, nor is, nor are, any part or parts thereof, subject to the trusts of the said settlement [*Or, agreement for a settlement*], or in any manner comprised therein, or affected thereby.

*Formal parts: see ante, No. 53.*

on the part of A. B., of (*residence and addition*), and C., his wife, late, and in the order dated the — day of —, 18—, called C. D., an infant [*or as may be*]: that the said C. B. may attend before the Master at —, and be examined, apart from her said husband, touching the manner in which she is willing and desirous that the (*Describe the funds to be dealt with*) shall be transferred, paid, applied, or disposed of, with the usual directions. And take notice (*as in No. 53*).

**657.**  
Notice of motion to take a married woman's examination as to the disposition of a fund in Court.

**A.**

In Chancery.

(*Title, as in order directing the examination.*)

The examination of C. B., the wife of A. B., in the order made in this cause [*Or, matter*] dated the — day of —, 18— (*Order directing the examination*), respectively named: taken pursuant to the said order.

**658.**  
Examination of a married woman by a Master.

I, the said C. B., the wife of the said A. B., having been this day examined, secretly and apart from my husband, by E. F., in the said order named, to whom and in what manner, and for what purpose, I am willing and desirous that the (*Describe the funds: as in the order directing the examination*), in the said order mentioned, shall be transferred, paid, applied or disposed of, for answer thereto say: that I am willing and desirous that the said sums of (*State what*) shall be (*State the result of the examination; as thus: transferred and paid to my husband the said A. B.—Or, settled for the benefit of myself, and my children, in such manner as the Court of Chancery, or any Judge thereof, may please to direct*). *If to be transferred and paid to husband, add: And I hereby freely and voluntarily consent to the said sums being transferred and paid to him accordingly. As witness my hand, this — day of —, 18—.*

C. B.

Witness to the signature of }  
the said C. B.

X. Y.



699.  
Certificate of  
examination.

**B.**

To the Honorable the Judges of the Court of Chancery :

I, the undersigned E. F., named in the order dated the — day of —, 18 —, above mentioned: humbly certify that, pursuant to the said order, I have this day examined the above named C. B., the wife of the above named A. B., secretly and apart from her said husband, to whom, in what manner, and for what purpose, she is willing and desirous that the sums of (*Describe them*), in the said order mentioned, shall be transferred, paid, applied or disposed of. And I have taken such examination in writing, as above set forth.

I further certify that, at the time of such examination, I read over the said order to the said C. B., and explained to her the purport and effect thereof; and I was satisfied that she was then aware of the nature and object of the said examination—*If the funds are to be transferred and paid to the husband, add:* and that she freely and voluntarily consented to the sums above mentioned being transferred and paid to her said husband A. B.

E. F.

Master at —.

700.  
Notice of motion for a settlement, by order, of a fund in Court on wife and children.

*Formal parts: see ante, No. 53.*

on the part of C. B., the wife of A. B., of (*residence and addition*), by E. F., of (*residence and addition*), her next friend for this purpose:

1. That the costs of this application, as between solicitor and client, may be taxed: or ascertained at Chambers; and may be paid out of the (*Describe the fund; as thus: £—, cash, in the bank on the credit of this cause [Or, matter], the account of C. B., the wife of A. B.*).

2. That the residue of the said fund may be carried over to the credit of "The account of the settlement of C., the wife of A. B., and her children," and be laid out in Dominion Stock.

3. That the said stock may be held upon the following trusts, namely (*State the trusts; as thus:*)

Upon trust for the said C. B., for her life, and, during any coverture, for her separate use: without power of anticipation;

And after her decease, upon trust for the said A. B., for his life;

And after the decease of the survivor of them, upon trust for all, or any one or more, exclusively of the other or others, of the children of the said C. B. by the said A. B., or any future husband, as she shall by deed or will appoint; and in default of such appointment, and in so far as no such appointment shall extend, in

trust for all the children, or the child, of the said C. B., who being sons or a son shall attain the age of twenty-one years, or, being daughters or a daughter, shall attain that age, or marry under that age; and, if more than one, in equal shares.

And in case there shall be no such child who, being a son, shall attain the said age, or, being a daughter, shall attain the said age, or be married, then from and after the decease of the said C. B., in trust for the said A. B., his executors, administrators and assigns.

*Or*, then in case the said C. B. shall die under coverture, in trust for such person or persons as she shall, by her last will, appoint; and in default of such appointment, in trust for the next of kin of the said C. B., according to the statutes for the distribution of the estates of intestates; as if she had never been married; but in case she shall survive the said A. B., then in trust for the said C. B., her executors, administrators and assigns,

And that any of the said children who shall take appointed shares shall bring such appointed shares into hotchpot, with their brothers and sisters, taking in default of appointment.

4. That the interest from time to time to accrue, during the life of the said C. B., on the said annuities may be paid to the said C. B., on her separate receipt, until further order.

In Chancery.

(Title of the cause or matter.)

We, A. B., of (residence and addition), and C., his wife, severally make oath, and say as follows:

1. This deponent C. B. is the same person as C. D., in the decree [*Or*, order] made in this cause [*Or*, matter] dated the — day of —, 18 —, named, and to whom the sums of (State what: as in the decree or order) are thereby directed to be paid (transferred and delivered).

2. Prove the marriage.

3. No settlement or agreement for a settlement whatsoever was made before or upon, or has been made since our said marriage.

4. The said sums of £ —, and £ —, have not respectively yet been paid (transferred and delivered), pursuant to the said decree [*Or*, order].

5. Under the circumstances aforesaid we are desirous to have the said sums of (State what) paid (transferred and delivered) to us, pursuant to the said decree [*Or*, order], and the Consolidated General Orders of this Honorable Court in this behalf.

Sworn (&c.: see ante, No. 14).

701.

Affidavit by husband and wife, for payment or transfer to them of a fund, not exceeding £200, directed before their marriage to be paid or transferred to her: where there is no settlement or agreement whatever.

**702.**  
The like, where  
there is a settle-  
ment or agree-  
ment, but not  
affecting the  
fund.

### In Chancery.

(Title of the cause or matter.)

We, A. B., of (*residence and addition*), and C., his wife, and E. F., of (*Place of business*), gentleman, the solicitor of the said A. B., and C., his wife, severally make oath, and say as follows :

And first, we, the said A. B., and C., his wife, for ourselves say :

1. This deponent (*Proceed as in No. 701, ante, to the end of par. 3; and continue as follows*) : other than and except the settlement [*Or, agreement for a settlement*] now produced and shown to us, and marked D., and dated the — day of —, 18 —.

4. The said sums (*Continue as in par. 4 of No. 701, ante, to the end of par. 5*).

And I, the said E. F., for myself say :

5. I have carefully perused the said settlement [*Or, agreement for a settlement*] dated the — day of —, 18 —, and which is also now produced and shown to me, and marked D. ; and, according to the best of my judgment, the sums of (*Describe the monies, stocks, funds, shares or securities sought to be paid, transferred, or delivered out ; and the cause, or matter, and account in which they stand*), are not, nor is, nor are any part or parts thereof, subject to the trusts of the said settlement [*Or, agreement for a settlement*], or in any manner comprised therein, or affected thereby.

Sworn (&c. : *see ante*, No. 14).

**703.**  
Affidavit for  
payment. &c.,  
ie the survivors  
of personal  
representatives,  
under an order  
not naming  
them.

*Formal parts : see ante*, No. 11.

1. I was well acquainted with A. B., deceased, and he was the person to whom the probate of the will [*Or, letters of administration of the effects*] of C. D., deceased, the person named in the order dated the — day of —, was [*Or, were*] granted by the Court of Probate [*or as the case may be*], on the — day of —, jointly with E. F. and G. H. : which probate [*Or, letters of administration*], marked X., is [*Or, are*] now produced and shown to me.

2. The said A. B. is also the person named in the certificate of burial [*Or, official extract from the register of deaths*] hereunto annexed.

**704.**  
The like, under  
an order nam-  
ing them.

*Formal parts : see ante*, No. 11.

1. I was well acquainted with A. B., deceased, the person named in the order, dated the — day of —, 18 —, as one of the legal personal representatives of C. D., deceased.

2. The said A. B. is also the person named in the certificate of burial [*Or*, official extract from the register of deaths] hereunto annexed.

*Formal parts : see ante, No. 11.*

1. I was well acquainted with A. B., deceased, the person named in the order dated, &c., and late of, &c. (*Follow description in probate or administration*).

2. Probate of the will [*Or*, letters of administration of the effects] of the said A. B., was [*Or*, were] granted by the Court of Probate [*or as the case may be*], on the — day of —, to C. D. and E. F.: which probate [*Or*, letters of administration], marked X., is [*Or*, are] now produced and shown to me.

3. The said A. B. is also the person named in the certificate of burial [*Or*, official extract from the register of deaths] hereunto annexed.

**705.**  
Affidavit for payment, &c., to (surviving) personal representatives, under an order for payment to a person, or his representatives.

*Formal parts : see ante, No. 53.*

on the part of C. E. W., of, &c., that the costs which by the order dated the — of —, 18 —, were directed to be paid to S. D., as solicitor for A. B., &c., may, instead thereof, be paid to the applicant C. E. W.

**706.**  
Notice of motion for payment of costs to one solicitor, instead of another.

*Formal parts : see ante, No. 11.*

1. A. B., in the order made in this cause [*Or*, matter] dated the — day of —, 18 — (*Order under which periodical payment is made*), named [*Or*, The above named A. B.], was alive on the — day of —, 18 —: as I know from (*State means of knowledge ; as thus : having seen him on the last mentioned day, at (State where)*).

2. To the best of my knowledge, information, and belief, the said A. B. is also now alive.

**707.**  
Affidavit of a person being alive: for the Registrar.

## CHAPTER. XXXIII.

### PRODUCTION OF DOCUMENTS:

—:O:—

**708.**  
Order to pro-  
duce.

In Chancery. } —, the — day of —, in the —  
                              } year of the reign of Her Majesty Queen Vic-  
                              } toria, and in the year of our Lord 18 —.

Between

Plaintiff,

and

Defendant.

Upon the application of the said —, It is ordered that the said — do, within ten days after service of this order upon — or — solicitor, produce before and leave with the Registrar (*Or, Deputy Registrar at —*) of this Court, upon oath, all deeds, books, papers, writings and documents in — custody or power — relating to the matters in question in this cause, and that the said — be at liberty to inspect and take copies of or extracts from the same; and that the Registrar (*Or, the said Deputy Registrar*) do cause the same to be produced before any Master or Examiner of this Court, and at the hearing of this cause.

Entered

**709.**  
Master's direc-  
tions for pro-  
duction, made  
in the presence  
of the solicitor,  
and entered in  
his book.

At the request of the plaintiff [*Or, defendant—or other party, as the case may be*], I direct that the defendant A. B. [*Or, the plaintiff C. D.—or other party, as the case may be*], do, on or before ten of the clock of the — day of — next, produce and leave in my office, under oath, all deeds, books, papers, writings and documents (*If any particular deed, book or writing be desired, mention it specifically*) in his (*Or, their*) custody or power in any way relating to the matters in question in this cause.

**710.**  
Notice of mo-  
tion for further  
time to file an  
affidavit as to  
documents.

*Formal parts : see ante, No. 53.*  
on the part of the plaintiff [*or as may be*], that the time limited by the order dated the — day of —, 18 —, for the applicant to make and file an affidavit as to documents, may be enlarged until the — day of —, 18 —; and that the costs of this application may be costs in the cause. And take notice (*as in No. 53*).

In Chancery.

Between A. B.....Plaintiff,  
and  
C. D.....Defendant.

711.  
Affidavit on  
production, re-  
ferred to in  
Order 137, being  
Schedule G  
mentioned in  
that order.

I, --- of ---, make oath and say:—

1. I have in my possession or power the documents relating to the matter in question in this suit set forth in the first and second parts of the first schedule hereto annexed.

2. I object to produce the said documents set forth in the second part of the said first schedule.

3. (*State upon what ground the objection is made, and verifying the fact as far as may be.*)

4. I have had, but have not now, in my possession or power the documents relating to the matters in question in this suit set forth in the second schedule hereto annexed.

5. The last mentioned documents were last in my possession or power on (*State when*).

6. (*State what has become of the last mentioned documents, and in whose possession they now are.*)

7. According to the best of my knowledge, remembrance, information and belief, I have not now and never have had in my own possession, custody or power, or in the possession, custody or power of my solicitors or agents, solicitor or agent, or in the possession, custody or power of any other person on my behalf, any deed, account, book of accounts, voucher, receipt, letter, memorandum, paper, or writing, or any copy of or extract from any such document, or any other document whatever relating to the matters in question in this suit, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the first and second schedule hereto annexed.

Sworn, &c.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], to consider the sufficiency of the affidavit of the defendant A. B. [*or as may be*], filed the --- day of ---, 18 ---, as to the possession of documents: pursuant to the order dated the --- day of ---, 18 ---; and that the said defendant [*or as may be*] may be ordered to pay the costs of this application. And take notice (*as in No. 53*).

712.  
Notice of motion to consider the sufficiency in form of an affidavit as to documents.

*Date—title.*

and upon reading the order dated the --- day of ---, 18 --- (*Order directing the affidavit to be made*), and an affidavit of

713.  
Order thereon, where the affidavit is held to be insufficient.

the defendant A. B. [*or as may be*] filed the — day of —, 18 —, in pursuance thereof; and the Judge being of opinion that the said affidavit is insufficient,

*If the deponent applies for, and obtains further time, add:* and the said defendant [*or as may be*], by his solicitor, now applying for further time to file a full and sufficient affidavit, It is ordered, that the time for the said defendant [*or as may be*] to file a full and sufficient affidavit, pursuant to the said order, be enlarged to the — day of —, 18 —.

*If the documents have been ordered to be deposited in Court, add also:* And it is ordered, that the said defendant [*or as may be*] have till the — day of —, 18 —, to produce and leave with the Clerk of Records and Writs, pursuant to the said order, any documents relating to the matters in question in this cause [*or as may be*] which by the affidavit so to be made by him shall appear to be in his possession or power: except such of the same, if any, as he may by such affidavit object to to produce. And

it is ordered, that the defendant A. B. [*or as may be*] pay to the plaintiff C. D. [*or as may be*] £—, for the costs of this application.

*Or, the costs of this application: to be taxed by the Taxing Master, in case the parties differ.*

*Or, it is ordered, that the costs of this application be costs in the cause.*

**714.**  
Notice of motion for the production of documents objected to be produced.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that the defendant A. B. [*or as may be*] may be ordered, within (seven) days after service, to produce and leave with the Clerk of Records and Writs the several documents mentioned in his affidavit filed the — day of —, 18 —, and in the second part of the first schedule thereto [*or as may be*], and thereby admitted to be in his possession or power, but which documents he thereby objects to produce. And that the applicant, his solicitors and agents, may be at liberty to inspect and peruse the said documents, and take copies and abstracts thereof, and extracts therefrom at his own expense. And take notice (*as in No. 53*).

**715.**  
Notice of motion for an affidavit as to the possession of specified documents.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff, that the defendant A. B. may be ordered, within (seven) days after service, to make and file a full and sufficient affidavit, stating whether he has, or has had, in his possession or power the following documents, or any of them; that is to say (*Specify the documents*); and

accounting for the same. And that the said defendant may be (*Continue as in No. 714 to the end*).

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that he may be at liberty to seal up such parts of the documents mentioned in the (first) schedule to his affidavit—*Or*, answer—filed in this cause the — day of —, 18 —, as, according to an affidavit to be made by him, do not relate to the matters in question in this cause [*or as may be*]. And take notice (*as in No. 53*).

716.  
Notice of motion for leave to seal up irrelevant matter.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that (*Describe what, as thus*: all the documents—*Or*, the documents mentioned in the schedule hereto) deposited by him with the Record and Writ Clerk, pursuant to the order dated the — day of —, 18 —, may be delivered out to the applicant.

717.  
Notice of motion for the delivery out of documents deposited in Court, under an order

Received the documents [*or as they may be described in the order*], mentioned or referred to in the above order.

Dated this — day of —, 18 —.

(*Signature of the party to whom the documents are ordered to be delivered.*)

Witness to the signature }  
of the said A. B. }

C. D.

718.  
Receipt, on delivery out of deposited documents.

## CHAPTER XXXIV.

### SPECIAL CASE.

—:O:—

In Chancery.

In the matter of A. B., a person of unsound mind not so found [*Or*, an infant]; and of the Act 28th Victoria, chapter 17, intituled "An Act to amend the Consolidated Statute respecting the Court of Chancery."

on behalf of the above named lunatic A. B., that the said C. D.,

719.  
Notice of motion to appoint special guardian of lunatic or infant.



of (*residence and addition*), may be appointed the special guardian of the said A. B., for the purpose of concurring in his name, and on his behalf, in a special case proposed to be stated for the opinion of this Court, as to (*State object of the case ; as thus : the construction of the will of L. N. deceased*) : in which the said A. B. is interested.

An affidavit in support accompanies.

**720.**  
Notice of motion for the like.

*Formal parts : see ante, No. 53.*  
on the part of C. D. (&c. : *Continue as in No. 719, to intersted*).

**721.**  
Affidavit in support of motion, in the case of a lunatic.

In Chancery.

(*Title, as in No. 719, ante.*)

We, E. F., of (*Place of business*), gentleman, the solicitor in this matter for the above named A. B., and B. E., of (*Continue as in 121, ante, to make oath and say*) :

And first I, the said E. F., for myself, say as follows :

1. The said A. B. is interested in the subject matter of a special case proposed to be stated for the opinion of this Honorable Court, under the provisions of the above mentioned Act, as to the construction of the will of L. N., deceased [*or as may be*].

2. The said A. B. has not been found of unsound mind by inquisition, or other proceeding in lunacy [*or as may be*].

3. I know and am well acquainted with C. D., of (*residence and addition : as in the motion paper, or notice of motion*), the person proposed to be appointed the special guardian of the said A. B., for the purpose of concurring in his name, and on his behalf, in the said special case.

4. The said C. D. is (*State degree of relationship to, or connection with the family of, the lunatic ; as thus : the brother of the said A. B.*) ; and has no interest in the subject matter of the said proposed special case adverse to the interest therein of the said A. B. ; and in my judgment and belief the said C. D. is a fit and proper person to be appointed such guardian as aforesaid.

5. *Show means of knowledge.*

And I, the said B. E., for myself, say as follows :

6. I have been in actual practice (*Continue as in ante, No. 121, par. 6, to the end of that form*).

Sworn (&c. : *see ante, No. 11*).

In Chancery.

(Title, as in No. 719, ante.)

722.  
Affidavit in support of motion, in the case of an infant.

I, E. F., of (Place of business), gentleman, the solicitor in this matter for the above named A. B., make oath and say as follows:

1. The said A. B. is interested (*Continue as in No. 721, ante, to the end of par. 1.*)

2. 3. 4. (*Same as ante, No. 721, par. 3. 4. and 5.*)

Sworn (&c.: see ante, No. 13).

In Chancery.

Between (*Entitle the case as a cause between some or one of the parties interested, or claiming to be interested, as plaintiffs or plaintiff, and the others of them as defendants.*)

723.  
Formal parts of special case.

Special case stated for the opinion of the Court of Chancery for Upper Canada, pursuant to the Act 28th Victoria, chapter 17, intituled An Act (&c.: see ante, No. 719).

1. } (*State concisely, in numbered paragraphs, such facts and*  
2. } *documents as are necessary to enable the Court to decide the*  
3. } *questions raised by the case.*)

The questions submitted for the opinion of the Court are:

1. Whether, &c.

2. Whether, &c.

A. B., counsel for the plaintiffs.

C. D., counsel for the defendants.

NOTE.—This special case is filed by J. J., of —, in the county of — [or as may be: see ante, No. 1], solicitor for the above named plaintiffs.

Formal parts: see ante, No. 52a.

Take notice, that I have this day filed the special case in this cause.

724.  
Notice of filing in the case.

In Chancery.

- A. } Enter an appearance for A. B., to special case [Or,  
v. } amended special case] at the suit of B. A.  
B. }

725.  
Præcipe for appearance.

Dated this — day of —, 18 —.

(Name, &c., of solicitor or party entering the appearance: see ante, No. 3, or 8.)

729.  
Notice of ap-  
pearance.

*Formal parts : see ante, No. 52a.*

Take notice, that I have this day entered an appearance for the defendant A. B. to the special case [Or, amended special case] herein.

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737.  
Memorandum  
for the registry,  
or re-registry,  
of a special  
case, as a *lis  
pendens*.

The same as No. 175, *ante*.

---

738.  
Notice of mo-  
tion to amend  
special case, by  
consent.

*Formal parts.*

on behalf of the plaintiff, that he may be at liberty to amend the special case as he may be advised.

The case has not been set down for hearing.

---

739.  
Petition of  
course, for the  
like.

*Title—and address : see ante, No. 54.*

The humble petition of the plaintiff.

Showeth as follows :

1. Your petitioner lately filed a special case in this cause against the defendants: who have appeared thereto; but the said case has not been set down for hearing.

2. Your petitioner is now desirous to amend the said case.

Your petitioner therefore humbly prays, that, by consent of the defendants, he may be at liberty to amend the said special case, as he may be advised.

And your petitioner will ever pray, &c.

---

730.  
*Præcipe* for  
amendment of a  
special case,

(*Short title.*)

For amending special case.

C. D., plaintiff's solicitor [Or, agent].

---

731.  
Certificate of  
Record and  
Writ Clerk to  
set down  
special case,  
where no disa-  
bility.

*Formal parts : adding "By special case," after the short title.*

These are to certify that this cause is in a fit state to be set down for hearing, as appears by my book.

---

732.  
Indorsement  
thereon.

All parties are *sui juris*.

C. D., plaintiff's solicitor.

—, 18 —.

*Formal parts: see ante, No. 53.*  
 on the part of the plaintiff, that he may be at liberty to set  
 down for hearing the special case filed in this cause.

733.  
 Notice of motion to set down special case, where a disability.

An affidavit in support, accompanies.

*Formal parts: see ante, No. 53.*  
 on the part of the plaintiff [Or, defendant], that the defendant [Or, plaintiff may be ordered, within (seven) days after service, to produce and leave with the Clerk of Records and Writs the indenture dated the — day of —, 18— [or as may be], admitted by the special case filed in this cause to be in his possession; and that the parties to this cause, their solicitors and agents, may be at liberty to inspect and peruse the said document, and take copies and abstracts thereof, and extracts therefrom, as they may be advised; and that the said document may be produced by the Clerk of Records and Writs upon the hearing of the said special case, as the parties to this cause, or either of them, may require.

734.  
 Notice of motion for deposit in Court of documents referred to in the case.

*Formal parts: see ante, No. 52.*  
 Take notice, that I have this day set down the special case in this cause for hearing.

735.  
 Notice that special case has been set down for hearing.

## CHAPTER XXXV.

### SOLICITORS.

—:O:—

#### SECTION I.—AUTHORITY TO PROSECUTE OR DEFEND—CONSENT TO ACT AS RELATOR, NEXT FRIEND, OR GUARDIAN AD LITEM.

I, A. B., of (residence and addition), authorise Mr. C. D., of (Place of business), to commence and prosecute a suit [Or, such proceedings as may be necessary and proper], on my behalf, in the Court of Chancery, for (State, succinctly, the object; as thus: the administration of the estate of E. F., deceased). Dated this — day of —, 18 —.

736.  
 Authority by an adult, to prosecute a suit or proceeding.

A. B.

737.  
The like: by  
indorsement on  
bill, or origina-  
ting notice.

I, the within named A. B., authorise Mr. C. D., of (*Place of business*), to file this bill [*Or, issue this notice*], and to prosecute on my behalf the suit [*Or, proceeding*] to be commenced thereby. Dated, &c.

A. B.

738.  
Authority by an  
adult, to defend  
a suit or pro-  
ceeding.

In Chancery.

(*Short title.*)

I, (the defendant) A. B., of (*residence and addition*), authorise Mr. C. D., of (*Place of business*), to appear to, and defend this suit on my behalf.

*Or, to appear and act on my behalf on the hearing of the petition presented by [Or, order taken out on behalf of] E. F. in this matter—or as may be.*

Dated, &c.

A. B.

739.  
Authority by  
the relator in  
an information,  
to use his name.

I, A. B., of (*residence and addition*), authorise Mr. C. D., of (*Place of business*), to use my name as relator in the information about to be filed in the Court of Chancery, for the purpose of (*State, succinctly, what*); and to prosecute the suit to be commenced thereby. Dated, &c.

A. B.

740.  
The like: by  
indorsement on  
the information.

I, the within named A. B., authorise Mr. C. D., of (*Place of business*), to use my name as relator in the within information about to be filed; and to prosecute the suit to be commenced thereby. Dated, &c.

A. B.

741.  
The like, in the  
place of a de-  
ceased relator.

In Chancery.

(*Short title.*)

I, A. B., of (*residence and addition*), authorise Mr. C. D., of (*Place of business*), to use my name in this suit, as relator in the information therein, in the place of E. F., deceased; and to continue the prosecution of this suit. Dated, &c.

A. B.

742.  
Authority by  
the next friend  
of a person  
under disability,  
to prosecute a  
suit or proceed-  
ing.

I, A. B., of (*residence and addition*), authorise Mr. C. D., of (*Place of business*), to commence and prosecute a suit in [*Or, to make an application to*] the Court of Chancery, on behalf of E. F., an infant [*Or, a person of unsound mind, not so found—Or, the wife of G. F., of, &c.*], for (*State, succinctly,*

*the object ; as thus :* the administration of the estate of B. C., deceased—*Or*, for the appointment of a guardian of the person and estate of the said E. F., and an allowance for his maintenance); and to use my name in such suit [*Or*, proceeding] as the next friend of the said E. F. Dated, &c.

A. B.

I, the within named A. B., authorize Mr. C. D., of (*Place of business*), to file this bill [*Or*, issue this notice], and to prosecute the suit [*Or*, proceeding] to be commenced thereby; and to use my name as the next friend of the within named E. F. therein. Dated, &c.

743.

Authority by the next friend of a person under disability by indorsement on the bill or notice.

A. B.

In Chancery.

(*Short title.*)

I, A. B., of (*residence and addition*), consent to be appointed, and to act as, the next friend of the plaintiff [*Or*, applicant] C. D. in this suit [*Or*, proceeding], in the place of E. F. And I authorise Mr. G. H., of (*Place of business*), to use my name as such next friend, and to continue the prosecution of this suit [*Or*, proceeding].

744.

Authority by new next friend, to use his name, and continue proceedings.

A. B.

I, E. F., of (*residence*), the wife of G. F., of (*residence and addition*), consent to a suit [*Or*, proceeding] being commenced and prosecuted in the Court of Chancery, on my behalf, by A. B., of (*residence and addition*), as my next friend, for (*State, succinctly, the object ; as thus :* the administration of the estate of B. C., deceased). Dated, &c.

745.

Consent of a married woman to a suit or proceeding in her name by a next friend.

E. F.

In Chancery.

(*Short title.*)

I, A. B., of (*residence and addition*), consent to be appointed guardian *ad litem* of C. D., a defendant in this suit.

746.

Consent to act as guardian *ad litem* for a person under disability.

*Or*, who has been served with notice of the decree dated, &c., in this suit.

*Or*, of C. D., who has been served with the petition presented by—*Or*, order taken out on behalf of—E. F. in this suit—*Or*, matter—*or as may be*.

And I authorise Mr. G. H., of (*Place of business*), to defend this suit,

*Or*, to obtain an order to attend the proceedings under the said decree,

*Or*, to appear at the hearing of the said petition—*Or*,  
order—or *as may be*,  
on behalf of the said C. D., by me as such guardian.  
Dated, &c.

A. B.

747.  
Consent of a  
new guardian  
ad litem to act.

In Chancery.

(Short title.)

I, A. B., of (*residence and addition*), consent to be appointed,  
and to act, in the place of L. M., as guardian *ad litem* for C.  
D., a defendant in this suit.

*Or*, for C. D., who has obtained an order for leave to  
attend the proceedings under the decree in this suit.

*Or*, for C. D., who has been served with the petition  
presented by—*Or*, order taken out on behalf of—E. F.  
in this suit—*Or*, matter—or *as may be*.

And I authorise Mr. G. H., of (*Place of business*), to defend  
this suit,

*Or*, to attend the said proceedings,

*Or*, to appear upon the said petition—*Or*, order—or *as  
may be*,  
on behalf of the said C. D., by me as such guardian.

Dated, &amp;c.

A. B.

748.  
Attention to  
remainder of con-  
sent by a  
markman.

The mark

+

of A. B.

This paper writing was read over by me to the  
above named A. B.; and he appeared perfectly to  
understand the same, and made his mark thereto  
in my presence:

X. Y., of (*residence and addition*).

## SECTION II.—CHANGE OF SOLICITOR, OR AGENT.

749.  
Petition of  
course, by client  
to change his  
solicitor and  
agent.

Title—and address: *see ante*, No. 54.

The humble petition of the plaintiff [*or as may be*].

Showeth as follows:

1. Your petitioner lately employed Mr. E. F., of (*Place of  
business*), as his solicitor in this cause [*Or*, matter]—*If so*:  
who acted by Mr. L. M., of (*Place of business*), as his agent.

2. Your petitioner is now desirous to employ Mr. C. D., of (*Place of business*), as his solicitor—*If so*: and that Mr. G. H., of (*Place of business*), may be his agent.

Your petitioner therefore humbly prays, that he may be at liberty to change his solicitor in this cause [*Or, matter*], by appointing the said Mr. C. D. as such solicitor: in the place and stead of the said Mr. E. F.—*If so*: and that the said Mr. G. H. may be the agent of your petitioner therein, in the place and stead of the said Mr. L. M.

And your petitioner will ever pray, &c.

*Proceed as in No. 749, ante, to the end of par. 1.*

2. Your petitioner is now desirous to prosecute [*Or, defend*] this cause [*Or, matter*] in person.

Your petitioner therefore humbly prays, that he may be at liberty to prosecute [*Or, defend*] this cause [*Or, matter*] in person: instead of prosecuting [*Or, defending*] the same by the said Mr. E. F. as his solicitor—*If so*: who acted by his agent, the said Mr. L. M.

And your petitioner will ever pray, &c.

749.  
Petition of course, by client to act in person, instead of by a solicitor and agent.

*Title—and address: see ante, No. 54.*

The humble petition of A. B., one of the above named plaintiffs.

Showeth as follows:

1. Your petitioner, and the other co-plaintiffs above named, employ Mr. C. D. as their joint solicitor in this cause—*If so*: who acts by Mr. E. F. as his agent.

2. Your petitioner is now desirous to make an application respecting (*State what*), in this cause, separate from his co-plaintiffs therein, by Mr. G. H., of (*Place of business*), as his solicitor—*If so*: to act by his agent, Mr. L. M., of (*Place of business*).

Your petitioner therefore humbly prays, that he may be at liberty to appoint the said Mr. G. H. as his solicitor in this cause, for the purpose of making the said separate application—*If so*: and that the said Mr. G. H. may act by his agent, the said Mr. L. M.

And your petitioner will ever pray, &c.

754.  
Petition of course, by a co-plaintiff, to appoint a solicitor (and agent) for a separate application.



**752.**  
Petition of  
course, by a  
solicitor, to  
change his  
agent.

*Title—and address : see ante, No. 54.*

The humble petition of C. D., of (*Place of business*), a  
solicitor of this Honorable Court.

Showeth as follows:

1. The plaintiff [*or as may be*] employs your petitioner as  
his solicitor in this cause [*Or, matter*]; and your petitioner  
lately acted therein by Mr. G. H., of (*Place of business*), as  
his agent.

2. Your petitioner is now desirous to change his said agent.

Your petitioner therefore humbly prays, that he  
may be at liberty to change his agent in this  
cause [*Or, matter*], by appointing Mr. E. F., of  
(*Place of business*), as such agent: in the place  
and stead of the said Mr. G. H.

And your petitioner will ever pray, &c.

**753.**  
Notice of ap-  
pointment of a  
solicitor, in-  
stead of one  
deceased—or  
instead of  
client acting in  
person.

In Chancery.

(*Short title.*)

Take notice, that I am now concerned as solicitor in this  
cause [*Or, matter*] for the plaintiff [*or as may be*], in the  
place and stead of Mr. C. D., now deceased [*Or, instead of*  
his acting in person]. Dated this — day of —, 18 —.

E. F., of (*Place of business*).

To the Clerk of Records and Writs; and to Mr. G. H.,  
the solicitor [*Or, agent*] for the defendant [*or as may*  
*be*].

**754.**  
Notice of ap-  
pointment of  
an agent, in-  
stead of one  
deceased.

*Formal parts : see ante, No. 53.*

Take notice, that I am now appointed agent in this cause  
[*Or, matter*] for Mr. A. B., of (*Place of business*), the solicitor  
therein for the plaintiff [*or as may be*]: in the place and stead  
of Mr. E. F., now deceased.

**755.**  
Notice by soli-  
citor, that he is  
concerned for  
new plaintiffs.

*Formal parts : see ante, No. 753.*

Take notice, that I am now concerned as solicitor in this  
cause for A. B. and C. D., the now plaintiffs therein [*or as*  
*may be*].

## SECTION III.—STRIKING OFF THE ROLL.

In Chancery.

In re A. B., a solicitor of this Court.  
on behalf of the said A. B., of (*Place of business*), that he may  
be struck off the roll of solicitors of this Court.

756.  
Notice of mo-  
tion by a solic-  
itor to be struck  
off the roll.

An affidavit in support accompanies.

In Chancery.

In the matter of A. B., a solicitor in this Court.  
To the Honorable the Judges of the Court of Chancery.  
The humble petition of the above named A. B., of  
(*Place of business*).

757.  
Petition of  
counsel, for the  
like.

Showeth as follows:

1. In — term, 18 —, your petitioner was duly admitted  
a solicitor of this Honorable Court: and he is now on the  
roll of solicitors thereof.

2. Your petitioner is now desirous to have his name  
struck off the roll of solicitors of this Court.

Your petitioner therefore humbly prays, that he  
may be struck off the roll of solicitors of this  
Honorable Court.

And your petitioner will ever pray, &c.

In Chancery.

In the matter of A. B., a solicitor in this Court.  
I, the above named A. B., of (*Place of business*), gentleman,  
make oath, and say as follows:

758.  
Affidavit in sup-  
port of motion  
or petition.

1. In — term, 18 —, I was duly admitted a solicitor of  
this Honorable Court.

2. I am now desirous to have my name struck off the roll  
of solicitors of this Honorable Court.

3. No application or other proceeding is now pending in  
this Honorable Court, or elsewhere, against me as such  
solicitor as aforesaid; and I do not expect or apprehend that  
any application or proceeding will be made or taken against  
me as such solicitor as aforesaid.

SECTION IV.—DELIVERY AND TAXATION OF BILLS OF COSTS,  
UNDER CON. STA. U. C., CHAP. 35.

**759.**  
Notice of motion by solicitor, party chargeable, or third party, for the common order to tax a delivered bill.

*Formal parts :* entitling the motion paper as in No. 760.  
on behalf of the said A. B., of (*Place of business—Or, of C. D., of (residence and addition, of party chargeable, or third party),* for the common order to tax the said A. B.'s bill of fees and disbursements.

See statement within.

**760.**  
Petition of course, by solicitor, for the taxation of his delivered bill.

In Chancery.

In the matter of A. B., one of the solicitors of this Court.

To the Honorable the Judges of the Court of Chancery.  
The humble petition of the above named A. B., of (*Place of business*).

Showeth as follows :

1. Your petitioner was employed by C. D., of (*residence and addition*), as his solicitor in (*State, shortly, what ; as thus :* a certain suit in this Court, in which the said C. D. was plaintiff, and E. F. was defendant, and in other matters—*Or, in certain conveyancing business, and other matters, but not in any Court of Law or Equity—or as may be.*

2. Your petitioner transacted such business; and on the — day of —, 18 —, caused a bill of his fees, charges, and disbursements for the same, subscribed with his proper handwriting, (*Or, enclosed in, or accompanied by a letter subscribed with his proper handwriting—referring to such bill*), to be personally delivered to the said C. D. [*or as may be*].

3. The said C. D. has not paid your petitioner's said bill, nor taken any steps to get the same taxed.

Your petitioner therefore humbly prays, that it may be referred to the Master of this Court at —, to tax and settle the said bill: with the usual directions.

And your petitioner will ever pray, &c.

**761.**  
Order on petition of solicitor, to tax his delivered bill.

In Chancery.

In Chambers.

} —, the — day of —, A. D. 18 —.

In the matter of —.

Upon the humble petition of the above named —, and upon hearing read the affidavit of —, alleging that the petitioner was employed by — in certain business of the said — in a certain suit in this Court, in which —, and in other matters; that the petitioner transacted

the said business; and on the — day of — caused a bill of his charges, accompanied by a letter subscribed with his proper hand, to be — to the said —; that the said — has not paid the petitioner's said bill, nor taken any steps to get the same taxed. It is therefore ordered, that it be referred to the Master of this Court at —, to tax and settle the said bill, and that the petitioner and the said — do produce before the said Master, upon oath, as he shall direct, all deeds books, papers, and writings in their custody or power, respectively, relating to the matters hereby referred or any of them; and that they be examined upon oath touching the same matters, or any of them, as the said Master shall direct: And it is ordered that the petitioner do give credit for all sums of money by him received, of or on account of the said —, and be at liberty to charge all sums of money paid by him on account of the said —; and it is ordered that in case the said — shall attend upon such taxation, if the said bill when taxed be less by a sixth part than the said bill so delivered, the said Master do tax the costs of the said — of this reference; and if the said bill when taxed shall not be less by a sixth part than the said bill so delivered, the said Master do tax the petitioner's costs of this reference, and it is ordered that the said Master do certify the amount due from the said — to the petitioner, or from the petitioner to the said —, as the case may be, having regard to the costs of such reference if taxed as aforesaid; and it is ordered that the said — do, within twenty-one days after the filing of the said Master's certificate of such taxation, pay to the said petitioner, what (if anything) the said Master shall certify to be due to the petitioner upon such taxation; and upon such payment, or in case the said Master shall certify that there is nothing due to the petitioner, or that he has been overpaid, it is ordered that the said petitioner do deliver to the said —, upon oath, all deeds, papers, and writings in his custody or power, belonging to the said — and relating to the said business; and if it appears that the said bill is overpaid, it is ordered that the said petitioner do refund and repay what shall appear to have been overpaid. And it is ordered that no proceedings at Law, or otherwise, in respect of the said bill be taken by the petitioner against the said — pending such reference; and it is ordered that a copy of this order be personally served upon the said — one week at least before the taxation of the said bill.

*Title—and address: as in No. 760, ante.*

The humble petition of C. D., of (*residence and addition*).

Showeth as follows:

1. Your petitioner employed the above named A. B., of

763.  
Petition of  
course by party  
chargeable, to  
tax a delivered  
bill before  
action brought.

(Place of business); as his solicitor in (State, shortly, what: see ante, No. 760.

2. The said A. B., on the — day of —, 18—, delivered to your petitioner his bill of fees, charges and disbursements: which, as your petitioner is advised, contains many unreasonable and extravagant charges.

3. Your petitioner submits to pay to the said A. B. what shall appear to be due to him upon the taxation of his said bill.

Your petitioner therefore humbly prays, that it may be referred to the Master of this Court at —, to tax and settle the said bill: with all usual directions. And that no proceedings at law may be commenced against your petitioner in respect of the said bill, pending such reference.

And your petitioner will ever pray, &c.

763.  
Order on petition of party chargeable, to tax a delivered bill before action brought.

In Chancery. } —, the — day of —, A. D. 18 —.

In Chambers.

In the matter of —.

Upon the humble petition of —, and upon hearing read the affidavit of —, and it appearing by the said affidavit that the petitioner employed the above named — as his solicitor, in a certain suit in this Court, in which —, and in other matters; that the said solicitor, on or about the — day of —, delivered unto the petitioner his bill of fees, charges, and disbursements, which, as your petitioner is advised, contains many unreasonable and extravagant charges. That the petitioner submits to pay what shall appear to be due to the said solicitor on the taxation of his bill. It is therefore ordered, that it be referred to the Master of this Court at —, to tax and settle the said bill: and that the said petitioner, and also the said solicitor, do produce before the said Master, upon oath, as he shall direct, all deeds, books, papers, and writings in their custody or power, respectively, relating to the matters hereby referred, or any of them; and may be examined upon oath touching the same matters, or any of them, as the said Master shall direct: And it is ordered that the said solicitor do give credit for all sums of money by him received, of or on account of the petitioner, and be at liberty to charge all sums of money paid by him to or on account of the petitioner; and it is ordered that if the said bill when taxed be less by a sixth part than the said bill as delivered, the said Master do tax the costs of the petitioner of this reference, and if the said bill when taxed shall not be less by a sixth part than the said bill as delivered, the said Master do tax the costs of the said solicitor of such reference; and it is ordered that

the said Master do certify the amount due from the petitioner to the said solicitor, or from him to the petitioner, as the case may be, having regard to the costs of such reference so to be taxed as aforesaid, and any sum or sums of money which may have been so received or paid as aforesaid; and it is ordered that the amount so to be certified be paid within twenty-one days after the filing of the certificate of such taxation, by the party liable to pay such amount. And, it is ordered, that upon payment by the petitioner to the solicitor of what may be certified to be due to him as aforesaid, or in case it shall appear that there is nothing due to him, that the said solicitor do deliver to the petitioner upon oath, all deeds, papers, and writings in his custody or power, belonging to the said petitioner, and relating to the said business. And it is ordered, that no proceeding at law, or otherwise, be commenced against the petitioner in respect of the said bill pending such reference, but the said Master is to make his certificate in a month, unless the said Master shall certify that further time is necessary to enable him to make his certificate, or this order is to be of no effect.

*Proceed as in 762, to the end of par. 2; and continue thus:*

3. The said A. B. has commenced an action against your petitioner in Her Majesty's Court of Queen's Bench [or as may be], to recover the amount of the said bill; and your petitioner has appeared thereto (*State, shortly, the subsequent proceedings, if any*). 764.  
Petition of  
course, by party  
chargeable, to  
tax a delivered  
bill, after  
action brought.

4. Your petitioner submits to pay to the said A. B. what shall appear to be due to him upon taxation of his said bill.

Your petitioner therefore humbly prays, that it may be referred to the Master of this Court at \_\_\_\_\_, to tax and settle the said bill: with all usual directions. And that all further proceedings at law may be stayed against your petitioner in respect of the said bill, pending such reference.

And your petitioner will ever pray, &c.

*Formal parts: see ante, No. 761.*

It was therefore prayed, and it is accordingly ordered, that it be referred (*Direction to tax bill, and clause as to the cash account: as in No. 761*).

765.  
Order thereon.

And in case it shall appear that there is anything due to the said solicitor, it is ordered that the said Master do tax the said solicitor his costs of the said action at law; and that such costs be added to the amount which shall be so found due. Costs of the  
action.

And it is ordered that (*Clauses as to costs of reference, and ultimate balance : as in No. 761*).

Where special circumstances certified.

And it is ordered that the amount so to be certified be paid accordingly: unless the Court shall, upon special circumstances to be certified by the said Master, otherwise order, upon application to be made within one week after the date of the said Master's certificate by the party liable to pay such amount.

And it is ordered that (*Clause as to delivery up of deeds, &c. : as in No. 761*).

Action stayed.

And it is ordered that all further proceedings at law against the petitioner in respect of the said bill be stayed, pending such reference; but the petitioner is to carry this order, and the said bill of costs, into the office of the said Master on or before the — day of —; and, in default thereof, the said solicitor is to be at liberty to proceed with the said action at law, as if this order had not been made.

Prosecution of order.

And it is ordered that either party be at liberty to prosecute this order; and the said Master is to make his report in a fortnight (unless the said Master shall certify that further time is necessary to enable him to make his report): or this order is to be of no effect.

Payment, where no special circumstance.

Writs of execution.

And in case the said Master shall not state any special circumstance in his said report, and shall certify that there is anything due from the petitioner to the said solicitor, it is ordered that the amount so certified be paid by the petitioner to the said solicitor; and in default of such payment being made, the said solicitor is to be at liberty, at any time after two days from the filing of the said Master's report (without service of this order, or of the said report), to sue out execution against the petitioner by *feri facias*, or otherwise, for the amount which may be so certified to be due as aforesaid.

766.  
Petition of course, by party chargeable, for delivery of a bill and taxation.

*Proceed as in No. 762, ante, to end of par. 1; and continue thus :*

2. Your petitioner is desirous of obtaining the papers in the possession of the said A. B. belonging to your petitioner, but the said A. B. refuses to deliver up the same until his bill of costs be paid.

3. The said A. B., although applied to, has not delivered his bill of costs against your petitioner.

4. Your petitioner submits to pay to the said A. B. what shall appear to be due to him in respect of the said bill.

Your petitioner therefore humbly prays, that the said A. B. may, within a fortnight after notice hereof, deliver to your petitioner a bill of all such fees, charges and disbursements as he claims to be due to him from your petitioner; and that it may be referred to the Master of this Court at \_\_\_\_\_, to tax and settle the said bill: with all usual directions.

And your petitioner will ever pray, &c.

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*Formal parts: as in No. 761.*

767.  
Order thereon.

It was therefore prayed, and it is accordingly ordered, that the said solicitor do, within a fortnight after notice hereof, deliver to the petitioner a bill of fees and disbursements in all suits, causes, and other matters of business in which he has been employed as the attorney or solicitor for the petitioner. And that it be referred (*Conclude as in No. 763*).

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*Title—and address: as in No. 760.*

The humble petition of E. F., of (*residence and addition*).

768.  
Petition of course by a third party, for taxation of bill.

Showeth as follows:

1. *State how the liability to pay was incurred; as thus:* Mr. C. D. employed the above named A. B. as his solicitor in and about the sale of certain land by the said C. D. to your petitioner; and it was part of the contract of sale that your petitioner should bear the costs of the said C. D. of making out his title to the said land, and of the assurance thereof to your petitioner.

2. The said A. B., on the (*Continue as in No. 762, to the end of that form*).

---

*Formal parts: as in No. 761.*

It was therefore prayed, and it is accordingly ordered, that it be referred (*Direction to tax bill, and costs of reference; and for production of books, &c.: as in No. 761*).

769.  
Order on petition of course, by a third party for taxation of bill.

And it is ordered that the said Master do certify the amount due from the petitioner to the said solicitor: or from him to the petitioner: as the case may be: having regard to the costs of such reference so to be taxed as aforesaid.



And it is ordered that the amount so to be certified (*Direction to pay : as in No. 763*).

And it is ordered that no proceedings (*Conclude as in No. 763, ante*).

770.  
Notice of motion by a party beneficially interested, to tax a delivered bill.

In Chancery.

In the matter of A. B., one of the solicitors of this Court.

*Formal parts : as in No. 53.*

1. That : on the submission of the applicant to pay what, if anything, shall appear to be due to the above named A. B., of (*Place of business*), upon taxation of his bill herein-after mentioned : it may be referred to the Master of this Court at —, to tax and settle the bill of fees, charges, and disbursements, amounting to the sum of £—, delivered by the said A. B., to C. D., as the trustee [*Or, executor*] of the will [*Or, administrator of the personal estate*] of G. H., deceased [*or as may be*]; and which the said C. D. has paid [*Or, claims to be entitled to pay*] out of property in which the applicant is interested.

2. That the applicant, and the said A. B. and C. D., respectively, may be directed to produce before the said Master, upon oath, as he shall direct, all books, papers, and writings in their custody or power, respectively, relating to the said bill; and be examined upon interrogatories, or otherwise, touching the same, as the said Master shall direct.

3. That the said A. B. may be ordered to give credit for all sums of money by him received of, or on account of, the said C. D., in respect of the said bill; and be at liberty to charge all sums of money paid by him to, or on account of the said C. D., in respect of the said bill.

4. That if such bill when taxed shall be less by a sixth part than the said bill so delivered, the said Master may be directed to tax the applicant and said C. D. their costs of the said reference; and that if such bill when taxed shall not be less by a sixth part than the said bill so delivered, the said Master may be directed to tax the said A. B. his costs of the said reference.

5. That the said Master may be directed to certify the amount due from the said C. D. and the applicant to the said A. B.: or from the said A. B. to the said C. D. and the applicant, or either of them, as the case may be : having regard to the costs of such reference.

6. That the amount so to be certified may be directed to be paid, within twenty-one days after service of the order to be made hereon, and of the said Master's certificate to be made in pursuance thereof: unless the Court shall, upon

special circumstances to be certified by the said Master, otherwise order, upon application to be made, within one week after the date of the said Master's certificate, by the party liable to pay such amount.

7. That the costs of this application may be dealt with, in such manner as the Judge shall think fit to direct.

And take notice that on such motion will be read (*as in No. 53*).

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*Formal parts: see ante, No. 770.*

on the hearing of an application on the part of C. D., of (*residence and addition*);

1. That: upon the submission of the applicant to pay to the above named A. B., of (*Place of business*), what shall appear to be due to him upon the taxation of his bill hereinafter mentioned: it may be referred to the Master of this Court at — to tax and settle the bill of fees, charges, and disbursements, amounting to the sum of £—, delivered on or about the— day of—, 18—, to the applicant by the said A. B., as his solicitor: with all usual directions.

2. That no proceedings at law may be commenced against the applicant in respect of the said bill, pending such reference. And take notice (*as in No. 53*).

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*Formal parts: see ante, No. 770*

on the hearing of an application on the part of C. D., of (*residence and addition*);

1. That it may be referred to the Taxing Master of this Court at — to tax and settle the bill of fees, charges, and disbursements, amounting to the sum of £—, delivered by the above named A. B., of (*Place of business*), to the applicant, and paid by the applicant to the said A. B., on or about the— day of—, 18— [*or as may be*].

2. That the applicant and the said A. B., respectively, may be directed (*Continue as in ante, No. 772, par. 2, to the end of par. 3*).

4. That in case it shall appear that the said bill is overpaid, the said Master may be directed to certify the amount overpaid; and that in such case the said A. B., may be ordered, within twenty-one days after service of the order to be made hereon, and of the said Master's certificate to be made in pursuance thereof, to repay to the applicant what shall be certified to be the amount so overpaid by him.

771.

Notice of motion for the taxation of an unpaid bill, after a year from delivery.

772.

Notice of motion, for the taxation of a paid bill.

5. That the said Master may be at liberty to state any circumstance specially, at the request of either party, as he shall think fit.

6. That the costs of this application, and of the said reference, may be dealt with in such manner as the Judge shall think fit to direct. And take notice (*as in No. 53*).

773.  
Notice of motion, for time to deliver bill of costs.

*Formal parts: see ante, No. 53.*

on the part of the above named A. B., that the time allowed to the applicant to deliver his bill of fees, charge and disbursements, pursuant to the order dated the — day of —, 18—, may be enlarged until the — day of —, 18—. And take notice that on such motion (*as in No. 53*).

774.  
Notice of motion, to discharge, for irregularity, an order of course to tax.

The same as No. 603.

#### ARBITRATION.

In Chancery.

775.  
Motion paper, to make a submission to arbitration, by consent, an order of Court.

In the matter of the arbitration between A. B. and C. D. [*or as may be*].

To move on behalf of the said A. B., that the submission to arbitration contained in (*Describe the document; as thus: an indenture dated the —, 18—, and made between the said A. B. of the one part, and C. D. of the other part*), may be made an order of this Court.

776.  
Notice of motion, to make a submission to arbitration, by consent, an order of Court.

(*Title: as in No. 775, ante; and other formal parts: as in No. 53 ante.*)

on the part of A. B., that the submission (*Continue as in No. 775, ante, to the end*).

777.  
Affidavit, verifying signatures to the submission.

*Formal parts: see ante, No. 11.*

1. On the — day of —, 18—, I saw A. B. and C. D. the parties to the parchment [*Or, paper*] writing dated the — day of —, 18—, now produced and shown to me, and marked F. and purporting to be a submission of certain matters to arbitration, duly sign, seal, and as their respective acts and deeds deliver [*Or, if not under seal, say: duly sign*] the said exhibited document.

2. The names or signatures "—" and "—" respectively set and subscribed to the said parchment [*Or, paper*] writing, are of the proper handwriting of the said A. B. and C. D., respectively.

3. The name or signature "—," set and subscribed to the attestation of the signatures of the said A. B. and C. D., indorsed on [*Or, written under*] the said parchment [*Or, paper*] writing, is of my proper handwriting.

*Formal parts: see ante, No. 775.*

on the part of defendant, that all proceedings in this suit may be stayed: the matters in difference therein between the parties thereto having been agreed to be referred to arbitration.

778.  
Notice of motion, to stay suit, after a reference agreed on.

Take notice, that you are hereby required, on or before the — day of —, 18—, to concur with me in appointing an arbitrator [*Or, umpire, or third arbitrator*] to whom all matters in difference between us may be referred, in pursuance of the submission between us dated the — day of —, 18—: to act in the place of E. F. deceased [*or as may be*]. Dated this — day of —, 18—.

A. B., of (*residence and addition*).

To C. D., of (*residence and addition*).

779.  
Notice to concur in appointment of an arbitrator, or third arbitrator or umpire.

(*Title: as in No. 775, ante.*)

that G. H., of (*residence and addition*), may be appointed arbitrator [*Or, umpire, or third arbitrator*], to whom all matters in difference between the said A. B. and the above named C. D. may be referred, in pursuance of the submission between them dated the — day of —, 18—: the said G. H. to act in the place of E. F. deceased [*or as may be*]. And take notice (*as in No. 53.*)

780.  
Notice of motion for such appointment to be made, on default.

*Formal parts: see ante, 780.*

on the part of the above named A. B., that the appointment by the above named C. D., of E. F. to act as sole arbitrator, to whom all matters in difference between the said A. B. and C. D. shall be referred, in pursuance of the submission between them dated the —, 18—, may be revoked. And that the said matters in difference may be referred to the said E. F., jointly with G. H., of (*residence and addition*), as the arbitrators of the said A. B. and C. D., respectively.

781.  
Notice of motion to revoke appointment of sole arbitrator.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that, by consent, all matters in difference between the parties to this

782.  
Notice of motion to refer, matters in difference in a

cause to arbitration, by consent.

cause may be referred to the arbitrament and final determination of S. Y., of &c., on the terms following; namely:

1. The said arbitrator is to make his award in writing, on or before, &c; or within such further time as he shall appoint.
2. All deeds, books and papers in the custody or power of any of the parties, relating to the matters in question, are to be produced before the said arbitrator, as he shall direct: to be ascertained by the oaths of the respective parties producing the same.
3. The parties and their witnesses: being first sworn: are to be examined, as the said arbitrator shall direct.
4. The costs of this cause, and of this application, and of the reference hereby directed, are to be in the discretion of the said arbitrator.
5. No bill is to be filed, or any action or other proceeding brought or taken, by any of the parties hereto, against the said arbitrator, for any matter or thing he shall do in or about, or touching any of the matters hereby referred to him.
6. The said arbitrator is to have power from time to time to enlarge the time for making his award: as he shall think fit.
7. Either of the parties hereto is to be at liberty to make such award an order of this Court.

Liberty to apply

783.

Notice of motion, to enlarge time for making award in a cause.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that the time limited by the order dated the —, 18—, for R. B., therein named, to make and publish his award in this cause, may be enlarged until the —, 18—.

784.

Formal parts of an award.

To all to whom these presents shall come: I, E. F., of (*residence and addition*), send greeting:

Whereas (*Recite the agreement or submission, or so much of its terms as may be essential to show the authority of the arbitrator, or umpire, with respect to the subject matter of reference, and the time, power of enlargement, and manner of making the award. Recite the enlargements, if any; and then proceed thus*):

Now know ye, that I the said E. F., having taken upon myself the burthen of the said arbitration, and having heard and duly considered all the allegations and evidence of the said respective parties of and concerning the said

matters in difference, and so referred as aforesaid, do make and publish this my award in writing of and concerning the said matters so referred to me; and do hereby award (&c.: *Conclude with a distinct statement of the arbitrator's decision on all the points referred to him*). In witness thereof I have hereunto set my hand (*If so: and seal*) this — day of —, 18—.

E. F.

Witness to the signature of the said E. F. }  
[Or, signed, sealed, and delivered by the }  
said E. F. in the presence of]:

G. H., of (*residence and addition*).

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that the award dated the —, 18—, of E. F., the arbitrator in this cause, may be made an order of this honourable Court. And take notice that on such motion (*as in No. 53*).

785.

Notice of motion, to make award an order of Court.

*Formal parts: see ante, No. 11.*

1. On the — day of —, 18—, I saw E. F., of (*residence and addition*), sign and publish [*Or, sign, seal, and publish*] his award in this matter dated the — day of —, 18—, and now produced and shown to me, and marked G.

2. The name or signature "—," set and subscribed to the said award as the party executing the same, is of the proper hand-writing of the said E. F.

3. The name and signature "—," set and subscribed to the attestation, written at the foot of the said award, of the execution thereof by the said E. F., is of my proper handwriting.

786.

Affidavit of publication of an award.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*or as may be*], that the award dated the —, 18—, of E. F., the arbitrator in this cause [*Or, matter*], may be set down for hearing as a special case, upon the questions thereby submitted for the determination of this honourable Court. And take notice [*as in No. 53*].

787.

Notice of motion, to set down for hearing a special case stated by an arbitrator.

*Formal parts: see ante, No. 53.*

on the part of the plaintiff [*Or as may be*], that the award dated the —, 18—, of E. F., the arbitrator in this cause [*Or, matter*], may be set aside on the following grounds; namely, (*State them; as thus*: (1) For that the said arbi-

788.

Notice of motion, to set aside an award.

## ACT FOR PRODUCTION OF CESTUI QUE VIE.

trator has not arbitrated upon matters which were referred to him; (2) For that the said award is uncertain, and not final as to the matters arbitrated upon, or referred to in the said award). And take notice [*as in No. 53*].

789.

Notice of motion, to remit matters to reconsideration of arbitrator.

*Formal parts: see ante, No. 53.*

on the part of the said R. W., that the time limited by the submission to arbitration in this matter, for making the award in pursuance thereof, may be enlarged to the —, 18—; and that the matters be remitted to the arbitrator, to supply an accidental omission in one part of his award of the words "taken in due form of law as aforesaid and," and of the word "satisfy"; and for a direction therein that if one of the parties to the said reference should pay the whole of the fees and compensation of the third arbitrator, the other party should repay him a moiety thereof; and also for the re-execution of the said award. And take notice [*as in No. 53*].

790.

Motion paper for production of cestui que vie. (†)

## ACT FOR PRODUCTION OF CESTUI QUE VIE (\*).

## In Chancery.

*Ex parte A. B.*

In the matter of an indenture of lease dated —, 18—, made between A. B. of the one part, and C. D. of the other part (*or as may be*).

And in the matter of the Act 6th Anne, chapter 18, intituled "An Act for the more effectual discovery of the death of persons pretended to be alive, to the prejudice of those who claim estates after their deaths."

To move on behalf of A. B., of (*residence and addition*), that C. D., of, &c., may be ordered, on the —, 18—, to produce and show at the door of the parish church of E., in the county of F.: between the hours of eleven in the forenoon, and one in the afternoon (*or as may be*): according to the provisions of the above Act: to the said A. B. (*Or, to G. H., of, &c., the agent of the said A. B.*), L. M., N. O., and P. Q., in the above mentioned inden-

(\*) 6 Anne, c. 18. As to this Act, see Dan. Pr. clxxxii., 1843—1847, 1991; Chambers on Infants, 162; Co. Litt. by Harg. 57d. n [2]; Hubback, 181; Seton, 521; Woodfall, 9. As to the course, where the tenant for life, or cestui que vie, is abroad: or, though alive, cannot be produced: see 6 Anne, c. 18, ss. 2, 4; Dan. Pr. 1845—1846. The Master of the Rolls has no jurisdiction under this Act: Dan. Pr. 1846.

(†) See 6 Anne, c. 18. s. 1; Dan. Pr. 1843, 1844. For order in like case, see *Ex parte Earl of Abergavenny*, V. C. K. 5 May, 1865, Reg. Lib. A. 807 [on special motion]; and see Seton, 521, No. 1.

ture dated, &c., respectively described, or some or one of them.

*Formal parts: see ante, No. 11.*

791.  
Affidavit in support.

1. *Show the creation of the life estate; as thus:* By an indenture dated the —, 18—, and made between A. B. of the one part and C. D. of the other part: being the indenture mentioned in the title or heading of this affidavit: certain lands therein described, situate at W., in the parish of E., in the county of F., were demised by the said A. B. to the said C. D., for and during the lives of L. M., N. O., and P. Q., therein respectively described, and the life of the longest liver of them.

2. *Shew the applicant's title to the reversion; as thus:* By indenture dated the —, 18—, made between the said A. B. of the one part, and me, the deponent, of the other part, the said A. B. granted and conveyed to me, my heirs and assigns, all the lands comprised in, and demised by, the said indenture of lease, but subject to such lease. I am now entitled to the reversion of the said lands, expectant on the death of the survivor of the said L. M., N. O., and P. Q.

3. *State special ground for the application; as thus:* I have good cause to believe that all of them the said L. M., N. O., and P. Q. are dead; and that such deaths are concealed by the said C. D., the lessee, and present tenant of the said lands.

*Formal parts:*

To move on behalf of A. B., in the annexed order dated, &c., named, that C. D., therein named, may be ordered to produce L. M., N. O., and P. Q., therein also named, at the bar of this Court on —, 18—.

An affidavit in support accompanies.

792.  
Motion paper for production of cestuis que vies in Court, on default.

*Formal parts:*

1. *Prove service of the order to produce at the church door: see ante, No. 45.*

2. *Prove attendance there, and non-production; as thus:* On the — day of —, 18—, I personally attended and waited at the door of the parish church of E., in the county of F., from before the hour of eleven of the clock in the forenoon, till after the hour of one of the clock in the afternoon of that day: being the place and time appointed by the said order of the —, 18—, for the

793.  
Affidavit in support.



production by the said C. D. to me of L. M., N. O., and P. Q., in the said order named, or some or one of them; but the said C. D. did not, nor did any person on his behalf attend at the time and place aforesaid and produce the said L. M., N. O., and P. Q., or any or either of them; nor have the said L. M., N. O., and P. Q., or any or either of them, been produced to me since the date of the said order.

794.  
Motion paper  
for final order,  
on non-pro-  
duction.

*Formal parts:*

To move on behalf of A. B., in the annexed order named, for an order that L. M., N. O., and P. Q., in the said order named, may be deemed to be dead: in the event of their not being produced in open Court, pursuant to such order, on the —, 18—.

An affidavit of service of the order accompanies.

795.  
Affidavit in  
support.

*Formal parts: see ante, No. 11.*

*Prove service of the order for production in Court: see ante, No. 38.*

DECREES.

796.  
Decree for  
sale, issued by  
Deputy Re-  
gistrar under  
Order 38.

*In Chancery.*

— the — day of — in the thirty — year of the reign of Her Majesty Queen Victoria, and in the year of our Lord 18—

*Between*

Whereas the above-named plaintiff filed — Bill in this Court for the payment and satisfaction of the mortgage securit in the said Bill mentioned, and thereupon served — the said defendant, as by — of service now produced appears, with an office copy of the said Bill, on which was endorsed the notice required by the General Orders of this Court in that behalf: whereby the defendant — informed, amongst other things, that the plaintiff claimed that there was then due by the defendant, for principal money and interest, the sum of — and that the defendant — liable to be charged with this sum, with subsequent interest and costs in and by the decree to be drawn up, and that in default of payment thereof within six calendar months from the time of drawing up the decree, — interest in the property might be —, and no answer or demurrer — note disputing such claim of plaintiff having been filed by the

said defendant within the time limited for that purpose by the said notice, as by the Books in the Office of the Deputy Registrar of this Court at ——— appears: And this Court having caused an account of subsequent interest to be taken on the sum of ——— principal money secured by the indenture of mortgage in the said Bill mentioned, up to the ——— day of ——— next, being the time appointed for payment as hereinafter mentioned, doth find the same amount to ——— and having caused the costs of the plaintiff to be taxed, doth find the same amount to ——— which said subsequent interest and costs being added to the sum of ——— so claimed by the notice endorsed on the copy of the Bill so served on the defendant ——— make together the sum of ——— and upon the said defendant paying the said sum of ——— into the ——— Bank ——— at the ——— in the ——— between the hours of ten o'clock in the forenoon and one o'clock in the afternoon of the ——— day of ——— next, to the joint credit of the plaintiff and the Registrar of this Court: It is ordered that the said plaintiff do assign and convey the said premises free and clear of all incumbrances done by ——— and deliver up all deeds and writings in ——— custody or power relating thereto upon oath to the said defendant or to whom he may appoint; but in default of the said defendant making such payment by the time aforesaid, It is ordered that the said premises be sold, with the approbation of the Master of this Court at ——— who is to settle the conveyance or conveyances to the purchaser or purchasers, in case the parties differ about the same: And it is ordered, that the purchaser or purchasers do pay his, her, or their purchase money into the Canadian Bank of Commerce, in the City of Toronto, to the credit of this cause, subject to the further Order of this Court; and that the same, when so paid in, be applied in payment of what has been found due to the said plaintiff, together with subsequent interests and subsequent costs, to be computed and taxed by the said Master. But in the event of such purchase money being insufficient to pay what shall be found due to the said plaintiff for such principal, interest and costs, subsequent interest and subsequent costs, It is ordered that the said defendant do forthwith, after service hereof, and of the said Master's certificate of the deficiency, pay to the said plaintiff the amount of such deficiency.

Entd. page  
Sale Book A.

\* A. B.  
Dy. Registr. at ———

797.  
Decree for  
foreclosure,  
issued by  
Deputy Re-  
gistrar, under  
Order 38.

In Chancery.  
— the — day of — in the thirty — year  
of the reign of Her Majesty Queen Victoria, and in the  
year of our Lord 18—  
Between

Whereas the above-named plaintiff filed — Bill in this Court for the payment and satisfaction of the mortgage securit in the said bill mentioned, and thereupon served — the said defendant, as by — of service now produced appears, with an office copy of the said Bill, on which was endorsed the notice required by the General Orders of this Court in that behalf; whereby the defendant — informed, amongst other things, that the plaintiff claimed that there was then due by the defendant — principal money and interest, the sum of — and that the defendant — liable to be charged with this sum, with subsequent interest and costs in and by the decree to be drawn up, and that in default of payment thereof within six calendar months from the time of drawing up the decree, — interest in the property might be —, and no answer or demurrer — note disputing such claim of plaintiff having been filed by the said defendant within the time limited for that purpose by the said notice, as by the Books in the office of the Deputy Registrar of this Court at — appears: And this Court having caused an account of subsequent interest to be taken on the sum of — principal money secured by the indenture of mortgage in the said Bill mentioned, up to the — day of — next, being the time appointed for payment as hereinafter mentioned, doth find the same amount to — and having caused the costs of the plaintiff to be taxed, doth find the same amount to — which said subsequent interest and costs being added to the sum of — so claimed by the notice endorsed on the copy of the Bill so served on the defendant — make together the sum of — and upon the said defendant paying the said sum of — into the — Bank — at the — in the — between the hours of ten o'clock in the forenoon and one o'clock in the afternoon of the — day of — next, to the joint credit of the plaintiff and the Registrar of this Court. It is ordered that the said plaintiff do assign and convey the said premises free and clear of all incumbrances done by — and deliver up all deeds and writings in — custody or power relating thereto upon oath to the said defendant or to whom he may appoint;

but in default of the said defendant making such payment by the time aforesaid, It is ordered that the said defendant do stand absolutely debarred and foreclosed of and from all equity of redemption in and to the said premises.

Entd. page  
Foreclosure Book A.

A. B.  
Dy. Regr. at ———

MASTER'S REPORTS.

In Chancery.

A. B. .... Plaintiff  
and  
Cr D. .... Defendant.

798.  
Master's report on Mortgage Decree for foreclosure where no parties are added in his office.

In pursuance of the Order made in this cause bearing date the ——— I was attended by the plaintiff's solicitor; and it appearing to me by the respective certificates of the Sheriff and Registrar of the county of ——— that no party or parties other than the said plaintiff ——— hath or have any lien, charge, or incumbrance upon the lands and premises embraced in the mortgage security of the said plaintiff in the bill in this cause mentioned subsequent thereto.

*(If the defendant have filed a traversing note add.)*

And, it subsequently appearing to me that notice of this proceeding had been duly served upon the said defendant.

*(If he had answered, insert, instead of this, the following :)*

And it subsequently appearing to me that the proper warrant, giving the defendant notice of this proceeding had been duly served upon him.

I proceeded to hear and determine the matters referred to me by the said Order and thereupon I was attended by the respective Solicitors for the said plaintiff, and the said defendant *(if the fact be so)*—or I was attended by the Solicitor for the said plaintiff.  
(no one attending on the part of the said defendant, though duly notified as aforesaid):

And I find that at the date of this my Report, there is due to the said Plaintiff, for principal money, interest and costs: and that there will accrue due to him for subsequent interest upon his said Mortgage security, the sums following, viz:

## MASTER'S REPORTS.

## I.

## CLAIM OF THE SAID PLAINTIFF.

Principal due on the Mortgage in the Bill in this cause mentioned, dated 1 January 1862, given by the said defendant to the said plaintiff securing \$1000, and interest registered the..... \$1,000 00

Interest thereon from 1. January,

1862 to 1. January, 1863 at 6% \$60 00

Deduct paid 1. January, 1863.... 160 00

100 00  
\$900 00

Interest on \$900 from 1. January,

1863 to 1. January, 1865.... \$54 00

Deduct paid 1. January, 1865.... 50 00

\$ 4 00

Interest on \$900 from 1. January,

1865 to 1. January, 1866.... 54 00

\$58 00

Deduct paid 1. January, 1866..... 258 00

200 00  
\$700 00

Interest on \$700 from 1. January, 1866 to 1.

January, 1869 (date of report)..... 126 00

\$826 00

Six Calendar months subsequent interest on

\$700 from 1. January, 1869 to 1. July, 1869 21 00

\$847 00

Costs, taxed and revised at..... 41 50

Total due Plaintiff 1. July, 1869..... \$888 50

And I appoint the said sum of \$888 50 to be paid by the said defendant into the Agency Office in the of the Canadian Bank of Commerce (or, as may be), to the joint credit of the said Plaintiff and the Accountant of this Honorable Court, between the hours of Ten of the Clock in the morning and Three of the Clock in the afternoon of the said First day of July next, being six calendar months next after the making of this my Report, as is by the said Order directed.

All which I humbly certify and submit to this Honorable Court.

Dated at this day of

In Chancery.

Between—A. B.....Plaintiff

and

C. D.....By Bill

and

E. F. and G. H. made parties

in the Master's office, .....Defendants.

798.  
Master's Report on Mortgage Decree, for foreclosure where subsequent encumbrancers are made parties in his office, but do not prove any claim.

In pursuance of the Order made in this cause, as originally entitled, bearing date the

I was attended by the Plaintiff's Solicitor; and it appearing to me by the respective Certificates of the Sheriff and Registrar of the County of —, that the said E. F. and G. H. not before—parties to this suit, have some lien, charge or incumbrance upon the lands and premises embraced in the Mortgage security of the said Plaintiff in the Bill in this cause mentioned subsequent thereto, and ought to be made — parties.

I did, on the — day of — order that they should be made — parties to this suit, according to the Consolidated General Orders of this Court, of June, 1868.

And, it subsequently appearing to me that the Notice in accordance with Schedule T. referred to in Order 444 of the said General Orders, had been duly served upon each of the said E. F. and G. H.

I proceeded to hear and determine the matters referred to me by the said Order, and thereupon I was attended by the Solicitor for the said Plaintiff, (no one attending on the part of the said E. F. or G. H., though duly notified as aforesaid):

And I find that at the date of this my Report, there is due to the said Plaintiff, for principal money, interest and costs: and that there will accrue due to him for subsequent interest upon his said Mortgage security, the sums following, viz:

I.

CLAIM OF THE SAID PLAINTIFF.

(Set out claim as in No. 798.)

And I certify, that although notified as aforesaid, no one of the said parties above designated as parties made in the Master's Office, hath attended before me, or proved

before me any subsisting lien, charge, or encumbrance upon the said lands and premises, whereby they have under the said Consolidated General Orders disclaimed and are foreclosed of all interest in the said lands and premises; and I hereby declare them foreclosed accordingly.

And I appoint the said sum of \$888 50 to be paid by the said C. D. into the Agency Office in the——of——of the Canadian Bank of Commerce (*Or, as may be*) to the joint credit of the said Plaintiff and the Accountant of this Honorable Court, between the hours of Ten of the Clock in the morning and Three of the Clock in the afternoon of the said——day of——, being six calendar months next after the making of this my Report, as is by the said Order directed.

All which I humbly certify and submit to this Honorable Court.

Dated at                      this                      day of

800.

Master's Report on mortgage Decree for foreclosure, where subsequent encumbrancers are made parties in his office, and one proves his claim.

In Chancery.

A. B. ....Plaintiff,  
and  
C. D. ....By Bill,  
and  
E. J., G. H., and J. K., made  
parties in the Master's  
office, ..... Defendants.

In pursuance of the order made in this cause, as originally entitled, bearing date the  
I was attended by the Plaintiff's Solicitor; and it appearing to me by the respective Certificates of the Sheriff and Registrar of the County of                      that  
the said E. J., G. H., and J. K.,  
not before——parties to this suit, have some lien, charge or encumbrance upon the lands and premises embraced in the Mortgage security of the said Plaintiff in the Bill in this cause mentioned subsequent thereto, and ought to be made——parties

I did, on the——day of——order that they should be made——parties to this suit, according to the Consolidated General Orders of this Court, of June, 1868.

And, it subsequently appearing to me that the Notice in accordance with Schedule T referred to in Order 444 of the said General Orders, had been duly served upon each of the said E. J., G. H. and J. K.

I proceeded to hear and determine the matters referred to me by the said Order, and thereupon I was attended by the respective Solicitors for the said Plaintiff, and the said E. J.——(no one attending on the part of the said G. H. and J. K. though duly notified as aforesaid):

And I find that at the date of this my Report, there is due to the said Plaintiff, and to the said E. J.——for principal money, interest and costs: and that there will accrue due to them for subsequent interest upon the Mortgage security and the judgment hereinafter mentioned, the sums following, viz:

## I.

## CLAIM OF THE SAID PLAINTIFF

(Set out Plaintiff's claim as in No. 798.)

## II.

## CLAIM OF THE SAID E. J.

Amount of a judgment recovered by the said E. J. against the said C. D., in the Court of——on the First day of July, 1865, (on which a *fi fa* against the lands of the said C. D., was placed in the hands of the Sheriff of the County of——on the First day of September, 1866, which was duly renewed [*if the fact be so*] on the ——day of——and on the ——day of——) for \$1000 true debt, and \$50 taxed costs..... \$1000.00

Cost taxed at law ..... 50.00  
\$1,050.00

Interest thereon from 1st July 1865 to  
January 1st, 1869 ..... 220.50  
\$1,270.50

*Fi fas* ..... \$10.00  
Sheriff's fees ..... 15.00 25.00

Costs allowed on this claim ..... 9.00  
\$1,295.50

Total due on this claim 1st January, 1869 ..... \$1,304.50

And I certify, that although notified as aforesaid, no one of the said parties above designated as parties made in the Master's Office, excepting the said E. J. —— hath attended before me, or proved before me any subsisting



lien, charge, or encumbrance upon the said lands and premises, whereby they have under the said Consolidated General Orders disclaimed, and are foreclosed of all interest in the said lands and premises; and I hereby declare them foreclosed accordingly.

And I have settled the priorities between all the said parties to this suit who have proved their claims before me as aforesaid, and find that such priorities are in accordance with the order in which the said claims are hereinbefore mentioned and set forth.

And I further certify that of the said Plaintiff and the said Defendants, the said Plaintiff and the said E. J. — only having attended before me in respect of the matters aforesaid, appear to me to be of them the only encumbrancers upon the said lands and premises affected by the Plaintiff's said Mortgage.

And I appoint the said sum of \$888.50 to be paid by the said E. J. into the Agency Office in the — of — of the Canadian Bank of Commerce (*or as may be*) to the joint credit of the said Plaintiff, and the Accountant of this Honorable Court, between the hours of ten of the clock in the morning and three of the clock in the afternoon of the said — day of —, being six calendar months next after the making of this my Report, as is by the said order directed.

All which I humbly certify and submit to this Honorable Court.

Dated at — this — day of —

Master at —

### 801.

Master's Report on Mortgage Decree for sale, where no parties are added.

*Same as No. 798,*

excepting that the words "subsequent thereto" in the early part of the form are omitted in a Report on a Sale Decree.

### 802.

Master's Report on Mortgage Decree for sale, where parties are added, but none prove.

*Same as No. 799,*

excepting that the words "subsequent thereto" in the early part of the form are omitted in a Report on a Sale Decree as in No. 798,

In Chancery.

A. B.....Plaintiff  
and  
C. D.....By Bill  
and  
E. F., G. H., J. K. and S. M.  
made parties in the  
Master's office.....Defendants.

803.  
Master's Report on Mortgage Decree for sale, where encumbrances are added, some of whom prove.

In pursuance of the Order made in this cause, as originally entitled, bearing date the

I was attended by the Plaintiff's Solicitor; and it appearing to me by the respective Certificates of the Sheriff and Registrar of the County of—that the said E. F., G. H., J. K. and S. M.—not before—parties to this suit, had some lien, charge or incumbrance upon the lands and premises embraced in the Mortgage security of the said Plaintiff in the Bill in this cause mentioned, and ought to be made—parties.

I did, on the—day of—order that they should be made—parties to this suit, according to the Consolidated General Orders of this Court, of June, 1868.

And, it subsequently appearing to me that the Notice in accordance with Schedule T. referred to in Order 444 of the said General Orders, had been duly served upon each of the said E. F., G. H., J. K. and S. M.

I proceeded to hear and determine the matters referred to me by the said Order, and thereupon I was attended by the respective Solicitors for the said plaintiff, and the said E. F. and G. H. (no one attending on the part of the said J. K. or S. M. though duly notified as aforesaid):

And I find that at the date of this my Report, there is due to the said Plaintiff, and to the said E. F. and G. H.—for principal money, interest and costs; and that there will accrue due to them for subsequent interest upon the Mortgage securities and the judgment hereinafter mentioned, the sums following, viz:

I.

CLAIM OF THE SAID PLAINTIFF

(Insert plaintiff's claim as in No. 798.)

II.

CLAIM OF THE SAID E. F.

(Insert E. F.'s claim as in No. 800)

(adding six months interest.)

## III.

## CLAIM OF THE SAID G. H.

Balance of principal due on a Mortgage, dated 1. July 1866, registered 1. October 1866, given by the said C. D. to this Claimant, securing.....	\$1000 00
And interest at 8 %.....	500 00
Balance of interest due, 1. January 1869.....	50 00

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\$550 00

Six months' subsequent interest on \$500 from 1. January 1869 to 1. July 1869.....	15 00
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\$565 00

Costs allowed on this claim.....	9 00
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Total due on this claim, 1. July 1869..... \$574 00

And I certify, that although notified as aforesaid, no one of the said parties above designated as parties made in the Master's Office, excepting the said E. F. and G. H. ———hath attended before me, or proved before me any subsisting lien, charge, or incumbrance upon the said lands and premises, whereby they have, under the said Consolidated General Orders disclaimed and are foreclosed of all interest in the said lands and premises: and I hereby declare them foreclosed accordingly.

And I have settled the priorities between all the said parties to this suit who have proved their claims before me as aforesaid, and find that such priorities are in accordance with the order in which the said claims are hereinbefore mentioned and set forth.

And I further certify that of the said Plaintiff and the said Defendants, the said Plaintiff and the said E. F. and G. H., only having attended before me in respect of the matters aforesaid, appear to me to be of them the only encumbrancers upon the said lands and premises affected by the Plaintiff's said Mortgage.

And I appoint the said respective sums of \$880 50, \$1336 00 and \$574 00 to be paid by the said C. D. into the Agency Office in the ——— of ——— of the Canadian Bank of Commerce (or as may be) to the joint credit respectively of the said Plaintiff, the said E. F. and the said G. H., and the Accountant of this Honourable Court, between the hours of Ten of the Clock in the morning and Three of the Clock in the afternoon of the said ——— day of ———, being six calendar

months next after the making of this my Report, as is by the said Order directed.

All which I humbly certify and submit to this Honourable Court.

Dated at ——— this ——— day of

Master at ———

In Chancery.

Between—A. B. .... Plaintiff  
and  
C. D. and E. F. .... By Bill  
and  
G. H. and J. K. made parties in the Master's office, ..... Defendants.

804  
Master's Report on Mortgage Decree for foreclosure where a Defendant by Bill is also an encumbrancer requiring service of appointment T, under Order 446. (1.)

In pursuance of the Order made in this cause, as originally entitled, bearing date the

I was attended by the Plaintiff's Solicitor; and it appearing to me by the respective Certificates of the Sheriff and Registrar of the County of — that the said G. H. and J. K. not before — parties to this suit, had some lien charge or incumbrance upon the lands and premises embraced in the Mortgage security of the said plaintiff in the Bill in this cause mentioned subsequent thereto, and ought to be made — parties.

I did, on the — day of — order that they should be made — parties to this suit, according to the Consolidated General Orders of this Court, of June, 1868.

And, it subsequently appearing to me that the Notice in accordance with Schedule T. referred to in Order 444 of the said General Orders, had been duly served upon each of the said G. H. and J. K.: and that the appointment in accordance with Schedule T. referred to in Order 446 of the said Orders, together with the proper warrant had been duly served upon the said defendant by Bill, E. F.

I proceeded to hear and determine the matters referred to me by the said Order, and thereupon I was attended by the respective Solicitors for the said plaintiff, and the said E. F. (no one attending on the part of the said G. H. or J. K., though duly notified as aforesaid): (*Proceeding as in the forms already given*).

(1.) This appointment is served where a defendant by Bill, interested in the Equity of Redemption is also an encumbrancer—the most familiar instance of this is, where a Mortgagor assigns to a Trustee for the benefit of creditors—the Trustee having a claim either by subsequent Mortgage or *à fa*. In such a case he must be served with the appointment under Order 446, and also with a warrant.

805.  
Master's Report after the plaintiff has been redeemed by a subsequent encumbrancer.

## In Chancery.

(Style of Suit.

In pursuance of the Decree made in this cause, as originally entitled, bearing date the — day of — I have been attended by the Solicitor for the said E. F., (*the encumbrancer*) (no one attending on the part of the said C. D.) (*the Mortgagor*) (*if the fact be so*)—and having heard the evidence adduced, and considered of the matters thereby to me referred. I find as follows, viz:

That having by my Report made in this cause, bearing date the — day of — found to be due to the said plaintiff for principal, interest, and costs, and for subsequent interest up to the — day of — upon his Mortgage Security in the Bill in this cause mentioned, the sum of \$ —

And having also in and by the said Report found to be due to the said E. F., for principal, interest, and costs upon his judgment (*or Mortgage as the case may be*) in the said Report set forth, up to the — day of — the sum of \$ —

And the said E. F. having redeemed the said plaintiff by paying to him the said sum of \$ —

I have now proceeded to take an account of subsequent interest, on foot of the said claim of the said plaintiff, and the said E. F., and have taxed to the said E. F. his subsequent costs; all of which appears as follows, viz:

## I.

Amount paid to redeem the said plaintiff on the — day of — \$ —

Interest thereon from the — day of —  
(*date of payment*) to the — day of —,  
(*date of Report*). \$ —

## II.

Amount found due to the said E. F. by the said Report. \$ —

Interest on \$ — from the — day of —  
to the — day of — (*date of Report*). \$ —

Amount of redemption money as above — \$ —

Three Calendar months' subsequent interest  
on the sum of \$ — + \$ — = \$ — from  
the — day of — to the — day of —

Subsequent costs, taxed and revised at — \$ —

Total due to E. F. on the — day of — \$ —

And I appoint the said sum of \$ — to be paid by the said C. D. (*the Mortgagor*) into the Agency office in the — of — of the — Bank, to the joint credit of the said E. F. and the Accountant of this Honourable Court, between the hours of Ten of the Clock in the morning, and Three of the Clock in the afternoon of the said — day of — being Three Calendar months next after the making of this my Report, as is by the said Decree directed—

All which &c.

Dated at &c.

A. B.

Master at —

In Chancery.

(*Style of Suit.*)

In pursuance of the Decree in this cause, as originally entitled, bearing date the — day of —. I have been attended by the respective Solicitors for the said plaintiff, and the said (*such parties, if any, as have attended*). : and having heard the evidence adduced, and considered of the matters thereby to me referred, I find as follows, viz :

806.  
Master's Report on taking a subsequent account under a foreclosure decree; or under an Order directing a new day of payment.

That having by my Report made in this cause bearing date the — day of — found to be due to the said plaintiff for principal, interest and costs, subsequent interest, and subsequent costs (*if the fact be so*), upon his Mortgage Security in the Bill in this cause mentioned, up to the — day of — the sum of — \$

I have now proceeded to take an account of subsequent interest, and have taxed to the plaintiff his subsequent costs : all of which appears as follows, viz :

(*Set out account as in forms ante,*)

And I appoint the said sum of \$ — (*as in form No. 798, with such alterations as the Order may require.*)

In Chancery.

A. B.....Plaintiff,

and

C. D.....Defendant.

In pursuance of the Decree made in this cause, bearing date the — day of — A.D., 18—. I have been attended by the respective Solicitors for the said parties,

807.  
Master's Report under a Decree for Redemption.

and having heard the evidence adduced and considered of the matters thereby to me referred, I find as follows viz :

That there is now due and will accrue due to the said defendant by the said plaintiff upon the Mortgage in the pleadings mentioned for principal, interest, subsequent interest and costs the sums following, viz :

*(Set out Mortgage as in Forms ante.)*

And I appoint the said sum of \$            to be paid in to the Agency Office in the City of Hamilton of the Canadian Bank of Commerce, to the joint credit of the said defendant and the Accountant of this Honorable Court, between the hours of Ten of the Clock in the morning and Three of the clock in the afternoon of the said day of           , being six calendar months next after the making of this my Report, as is by the said Decree directed.

All which I humbly certify and submit to this Honorable Court.

Dated at Hamilton this            day of           

808.  
Master's Report, on passing a Receiver's accounts.

In Chancery.

*(Style of Suit.)*

In pursuance of the Decree made in this cause, bearing date the — day of — 18—. I have been attended by A. B., Receiver of the rents and profits of the Real Estate of C. D. in the pleadings in this cause named, and of the profits of his personal Estate, also therein named, and by the respective Solicitors for the said parties (*or*, for the said E. F.—G. H., and J. K., *as the case may be*); and the said Receiver having brought before me an account of the rents and profits the said real and personal estate, and of his payments and allowances thereout for taxes, repairs, and other proper disbursements for the year commencing on            and ending on            I have in the presence of the said Receiver as also in the presence of the said Solicitors, proceeded to take the said account:

And I find that the said Receiver hath received by and out of the said rents and profits for that year the sum of.....\$1,000 00

And that he hath allowed to several tenants of the said Real Estate, for taxes and repairs

(or, as the case may be) in the aggregate the  
sum of..... 100 00

leaving a balance of.....\$900 00

And I have allowed to him 5% on the said sum of  
\$1000, being.....\$50 00  
as and for his salary as such Receiver, during the above  
mentioned period.

And I have taxed to the said Receiver his costs of pass-  
ing his said accounts, and they have been revised at the  
sum of \$20 00 which two last mentioned sums of \$50, and  
\$20 00, being taken from the said sum of \$900, leave the  
final sum of \$830 as cash in the hands of the said Receiver  
to the credit of the said Estate on the said day of  
(the day above mentioned, being the day up to  
which the account is made up.)

All which I humbly certify and submit to this Honor-  
able Court.

Dated at this day of 18—.  
A. B.  
Master at——.

IN CHANCERY.

BETWEEN

A. B. AND OTHERS,

AND

C. D. AND OTHERS,

*Defendants.*

*Plaintiffs.*

Pursuant to the Order [or Decree] herein made, dated  
the day of 18—, having caused an Office-  
copy thereof to be served upon [give the names of persons  
served under Order 60, and also the names of those upon  
whom service has been dispensed with, and the reason for  
dispensing with service], I proceeded to dispose of the  
matters referred to me, and thereupon was attended by  
the Solicitors for all parties interested [or as the case may  
be].

[If the Master has appointed a Guardian *ad litem*  
for any of the parties, this should be so stated,  
and the reason why such appointment was  
made.]

and I find as follows:—

1. The personal estate not specifically bequeathed of  
the testator come to the hands of the executors, and

809.  
Master's Re-  
port in an  
Administra-  
tion Suit,  
under Order  
589.



## MASTER'S REPORTS.

wherewith they are chargeable, amounts to the sum of \$  
 \$ and they have paid, or are entitled to be allowed thereout, the sum of \$ leaving a balance due from them [or "to them," as the case may be,] of \$— on that account.

[If no personal estate, say: No personal estate has come to the hands of the executors, nor are they chargeable with any,]

or are entitled to be allowed thereout, the sum of \$  
 leaving a balance due from [or to] them of \$ on that account.

[If no rents &c., received, say: No rents and profits have come to the hands of the said executors, nor are they chargeable with any]

8. I have allowed to the said executors the sum of \$  
 \$ as a compensation for their personal services in the management of the said estate.

*The first Schedule referred to in the foregoing Report.*

No.	NAMES OF CREDITORS.	PRINCIPAL.	INTEREST ALLOWED.		Costs at law (if any), subsequent to Judgment.	Costs of this Suit.	TOTAL.
			Rate per Cent.	Amount to date of Report.			
	[Distinguish any which are secured by mortgage, lien, or otherwise entitled to any priority.]	\$ C.	\$ C.	\$ C.	\$ C.	\$ C.	\$ C.

[No general form can well be framed for the other Schedules, but in all cases brevity is to be studied. Where particulars are given they should shew merely the general character of the things described; as, for instance, the Schedule of outstanding personalty may say: A number of book debts outstanding amounting in the aggregate to \$—; a quantity of household furniture and effects valued at \$—; and the like short particulars should be given in other cases. Lands should be described without setting forth metes and bounds.]

810.  
Certificate to  
tax costs  
under Order  
553.

## In Chancery.

(Title of cause or matter.)

I hereby certify that, to the best of my judgment and belief, the Tariff of fees under the Orders of this Court of 10th September, 1869, is applicable to this case.

Dated, &amp;c.,

A. B.

Solicitor for—.

811.  
Tariff of Fees  
under Order  
553.

## T A R I F F .

(Referred to in Order 563.)

## SOLICITOR.

Instructions for suit.....	\$1 00
Instructions to defend.....	1 00
Instructions for petition where no bill is filed.....	1 00
Letter of notice before instituting suit.....	0 25
Drafting bill not exceeding twenty folios, including copy to keep.....	2 00
For every additional folio above 20, (to be allowed in the discretion of the Master) including copy to keep, per folio.....	0 20
[No greater sum than \$3, to be taxed by the Master for drawing any bill, without the special direction of one of the Judges of the Court upon the application of the Solicitor requiring the same, for which application no charge is to be made]	
Drafting answer or other pleading, petition or special affidavit, per folio.....	\$0 20
[No greater sum than \$3, to be taxed for drawing any answer, petition, or affidavit, without the special direction of one of the Judges of the Court, as provided for in the case of bills; and no greater sum is to be allowed for drawing an answer, petition, or affidavit, than would have been taxed irrespective of this order.]	
Engrossed copies to file, copies to serve (other than copies on which a fee is paid to the Master, Clerk of Records and Writs, or Deputy Registrar, for reading over or authenticating the same), per folio.....	\$0 10
Copies of orders or other papers or documents required to be served, per folio.....	0 10

Office-copies authenticated by the Clerk of Records and Writs, or Deputy Registrar, per folio.....	0 08
Affidavits of service of bill, including attendance to swear .....	1 50
Affidavits of service, including attendance to swear .....	0 20
Precipe for any process, including attendance.....	0 25
Special attendance on Master's warrant or appointment, or on examination of witnesses, or on hearing of cause or demurrer or special motion.	0 50

[No such fee or any other costs of, and incidental to an appointment, is or are, to be allowed by the Master to any party, either by consent, or on any ground whatever, as part of the costs of the cause, when the appointment was adjourned without being proceeded on, or where no substantial progress with the reference was made thereon. But the Master may order the payment of such costs as provided for by order 213.]

When the hearing shall exceed one hour, then for every additional hour which shall be occupied by such hearing, and at which the Solicitor shall be present in Court, provided the same be noted in the Registrar's book, or be proved by affidavit (such affidavit to be without charge), the same not to exceed \$2..... \$0 50

For every additional hour beyond one hour in the Master's office..... 0 50

[For attendance in the Master's office upon a warrant or appointment to hear and determine, the Master may increase the fee for such attendance to any sum not exceeding one dollar per hour, where, in the judgment of the Master, the matters to be heard and determined are of such special nature as to have required previous preparation, and where the Master finds that previous preparation has been bestowed thereupon, and that in his judgment such increased fee is reasonable and proper under the circumstances; but no such allowance is to be made for more than one day, unless the hearing is proceeded with *de die in diem* to the conclusion thereof; or unless such proceeding be prevented by a party other than the one claiming the increased allowance; and the increased allowance is not to be made unless the same is noted at the time in the Master's book.]

For every additional hour in the examination of witnesses where no counsel employed..... \$0 50

[The fee on the attendance of a Solicitor, where the Solicitor attends in person, and no counsel is employed, may in special cases be increased in the discretion of the

Judge, or Officer before whom the examination is had, to one dollar, and where the examination occupies more than one hour, then one dollar for every additional hour which is so occupied, and during which the Solicitor is present in attendance thereupon, provided the same is noted at the time in the Registrar's book, or in the book of the Master, or other Officer, as the case may be.]

Attending consultations of Counsel, per hour..... \$0 50

[No special attendance to be allowed to a Solicitor on proceedings upon which he appears also as counsel.]

Appointment to settle minutes, or to pass decree or order, copy and service..... \$0 50

For every hour's attendance before the Registrar by his appointment, on settling minutes, the same being noted by the Registrar..... 0 50

For every hour's attendance before the Registrar by his appointment, on passing decree or special order, the same being noted by the Registrar.. 0 50

[The fee on settling minutes and on passing decrees or orders may be increased in the discretion of the Registrar, in special cases, to one dollar, where the Solicitor attends personally on each settling or passing.]

Where minutes settled, or decree or special order approved of or passed between the Solicitors after appointment issued by the Registrar..... \$0 50

[In such case no fee to be allowed to either party as for attendance before the Registrar in respect of the same settling or passing.]

Fee on all orders and writs of Court to the party obtaining the same..... \$0 50

Instructions for brief ..... 0 50

Brief, per folio, including briefing and fair copy, subject to be reduced by the Master, if the same contain superfluous matter or be of unnecessary length ..... 0 10

Observations or other original matter in brief, per folio ..... 0 20

[A brief of depositions or special affidavits to be allowed only where fee and brief for second counsel is taxed.]

Drawing special minutes when prepared by the Solicitor per folio..... \$0 20

Advertisement for sale of real or personal estate under the direction of the Court, including all copies, except for printing ..... 0 50

Copies for printing—per folio .....	0 10
Fee on conducting sale—including arrangements with auctioneer, correcting proof sheets (if any,) and attending sale .....	2 50
For every hour beyond three occupied at such sale .....	0 50
Drawing bill of costs and attending taxation .....	0 50
Drawing Judge's appointment, and attending for his signature, and to serve .....	0 50
Every necessary attendance .....	0 25
Necessary agency letters in the course of a cause or matter, to be allowed on taxation between party and party, as attendances, .....	

Postages—the amount actually disbursed.

[The sum allowed for copying and briefing shall be ten cents per folio, except where authenticated by the Clerk of Records and Writs, or read over by the Master; but the same shall not in any case exceed one half of the amount allowed for drawing what shall be so copied or briefed.]

#### COUNSEL.

On argument in Chambers in cases proper for the attendance of Counsel, to be increased at the discretion of the Judge .....	\$1 00
On settling and signing pleadings and petitions respectively, where from their special nature the Master shall think the pleading or petition a proper one to be settled by Counsel .....	1 00
On consultations .....	2 00
On special applications to the Court, arguing demurrer or other special argument, or at the hearing of a cause .....	5 00

[To be increased in the discretion of the Master, to a sum not exceeding \$20 to senior Counsel, and \$10 to junior Counsel, in suits of a special and important nature; but more than one Counsel fee is not to be allowed in any case not of a special and important nature. Where two Counsel fees or an increased fee is allowed by a Local Master, he is to forward to the Taxing Officer with the bill, upon transmitting it for revision, such information as may enable the Taxing Officer to judge of the propriety of the fee or fees allowed.]

#### MASTER.

Every summons or warrant .....	\$0 10
Administering oath, or taking affirmation .....	0 20
Marking every exhibit .....	0 10
Drawing depositions, reports or orders, per folio ...	0 20

## TARIFF OF FEES; ORDER 533.

One fair copy when necessary, per folio .....	\$0 10
Copy of papers given out when required, per folio .....	0 10
Every attendance upon a reference .....	0 50
For each additional hour .....	0 50
Every certificate .....	0 20
Filing each paper .....	0 10
Taxing costs, including attendance .....	0 50
Making up and forwarding answers and depositions .....	0 10
Every special attendance out of office, within two miles .....	0 50
Every additional mile above two .....	0 10
Reading affidavit—per folio .....	0 02
Matter added, per folio .....	0 20
Searching files in office .....	0 10

## REGISTRAR.

Drawing minutes of decree or special order—per folio .....	0 20
Drawing decree or order—per folio .....	0 20
Entering same—per folio .....	0 10
Fee on payment of money into Court .....	0 10
Fee on payment of money out of Court .....	0 10

## JUDGES' SECRETARY.

On every application in Chambers (including the order thereon, if made), for a decree against infants, for the administration of an estate, for a vesting order, for final order of foreclosure or sale, for foreclosure after abortive sale, or to extend time for payment of mortgage money .....	0 50
On every other application [including the order thereon, if made] .....	0 20
For other services, the like fees as are payable to the Master.	

## SPECIAL EXAMINERS.

Every summons or warrant .....	0 10
Administering oath, or taking affirmation .....	0 20
Marking each exhibit .....	0 20
Drawing depositions—per folio .....	0 20
Copy for Solicitor, when required—per folio ..	0 10
Every attendance out of office, when within two miles .....	0 50
Every attendance out of office above two miles, extra per mile .....	0 10
Every certificate .....	0 25
Making up and forwarding answers and depositions .....	0 10

Every attendance upon an appointment, when  
Solicitor or witnesses do not attend, and Ex-  
aminer not notified ..... \$0 50

# CLERK OF RECORDS AND WRITS, AND DEPUTY REGISTRARS.

Entering parties' names and filing bill, answer or  
demurrer ..... \$0 50  
Entering and filing all other pleadings, interroga-  
tories, depositions or other evidence, filing and  
registering affidavits, exhibits or other papers 0 10  
Entering note *pro confesso*..... 0 20  
Subpoena, including filing precipe ..... 0 20  
Special writ, writ of commission ..... 0 50  
Office-copy of papers required to be given out—  
per folio..... 0 10  
Examining and authenticating same, when office-  
copy prepared by Solicitor—every three folios 0 05  
Amendment of record, when re-engrossment not  
necessary—per folio ..... 0 10  
Making up and forwarding interrogatories ..... 0 10  
Setting down cause other than for hearing *pro*  
*confesso*..... 1 00

[The fee payable to a Deputy Registrar on setting down  
a cause for hearing to be \$4.]

Setting down cause *pro confesso* ..... \$0 20  
Certificate of pleadings being filed ..... 0 20  
Certificate of state of cause..... 0 20  
Searching files in office ..... 0 10

# SHERIFFS.

Receiving, filing, entering, and endorsing every  
paper..... \$0 10  
Return of all process and writs except subpoenas. 0 25  
Warrant to bailiff, on writ not executed by Sheriff  
or Deputy ..... 0 25  
Serving each office-copy bill, including affidavit of  
service ..... 0 50  
Serving each warrant, notice, certificate, subpoena,  
or other paper ..... 0 50  
Writ of arrest—arrest on ..... 1 00  
Attachment—arrest on ..... 1 00  
Sequestration—upon seizure of estate and effects  
under writ of sequestration ..... 1 00  
Schedule of goods taken in execution, includ-  
ing copy for defendant, if not exceeding five  
folios ..... 0 50



Each folio above five .....	\$0 10
Removing or retaining property, reasonable or necessary disbursements, allowance to be made by the Master, or by order of the Court or Judge.	
Poundage upon sequestration, followed by sale.....	5 per cent.

For services not specified—The like charges as are allowed by County Court tariff for analogous service.

P. M. VANKOUGHNET, *C.*

J. G. SPRAGGE, *V. C.*

O. MOWAT, *V. C.*

## CHAPTER XXXVI.

812.  
Petition under  
the Quieting  
of Titles Act.

QUIETING OF TITLES.—29 VIC., c. 25.—1865.

### AS TO THE PETITION.

In the heading the lands should be shortly described to avoid the expense of advertising. A loose indefinite description, as "part of lot 2," without saying what part is to be avoided. If the land is and for some time past has been in the occupation of any person, it may sometimes be proper to state, "now and for some time past occupied by ———." So also, if it adjoin any well-known farm or house, or has been long occupied by a well-known individual or Company, or a Bank, it may be advisable to say that it so adjoins on the north, or as the case may be. In the body of the Petition, however, the description should be as certain as a conveyance, both to identify the whole land claimed with the County Registrar's Certificate, and in order that the Certificate of Title may follow it, and for Registry purposes. For the same reasons also the Petition should properly describe the estate or interest claimed in the land. Moreover, with a view to notice, it is important that the Petition should be correct, for the Petition and the Notice under it should not be for a larger interest than the Petitioner has, as for instance, for a fee simple absolute, when the estate is a fee tail, or liable to be defeated by an executory devise

over. In short the Petition should be so framed as that the Judge can grant what is therein prayed for.

In the following forms the cases put come under the 2nd section of the Act.

A Mortgage in fee outstanding and unsatisfied will not prevent the application of the Act.

If an applicant find a difficulty in describing his interest by reason of the informality of any instrument, he may have to set out the material parts of it *verbatim*, and claim under it.

### FORM OF PETITION.

#### IN CHANCERY.

In the matter of (*see remarks above.*)

TO THE HONORABLE THE JUDGES OF THE COURT OF CHANCERY.

The petition of ——— of ——— sheweth,—

That your petitioner is entitled to the property herein-after described, as tenant in fee simple absolute (*following the form in the Act.*)

The following are illustrations of special cases :—

If the estate be a present one, liable to be defeated by an executory devise over, or by limitations by way of shifting use contained in a deed, as tenant in fee simple, (or as the case may be), determinable on, (*set out the event whereon the devise over takes effect, or the use shifts, and referring to the instrument*), or, if the estate be not in possession, but a future estate dependent on the determination of a prior estate by executory devise or shifting use), entitled, &c., dependent and to take effect in possession on, (*setting out the event and the instrument; or say, on the determination of the estate thereby devised or granted to, &c.*) (*If the event has happened whereon the devise over takes effect, or the use shifts, and is executed in possession, then claim as in an ordinary case of an absolute estate in possession. In the case of an estate tail, the issue in tail may have been barred, but not those in remainder or reversion, in which case the applicant may claim "as entitled to a base fee," or, "as tenant in tail entitled to a base fee," according to the fact, "within the meaning of the Consolidated Statute of Upper Canada, chapter 83."* If neither issue in tail, or remainder man, or reversioner, have been barred, then claim "*as actual tenant in tail within the meaning, &c.*") (*If the petitioner claims a term of years renewable from time to time in*

*perpetuity or otherwise, state,)* entitled to a term of years expiring on —, created by, and subject to the provisos, rents, conditions, covenants and agreements contained in a certain Indenture between, &c., — dated, &c., — registered, &c., — renewable as in the said Indenture specified.

That there is no charge or other incumbrance affecting your petitioner's title to the said land, (*except an annuity to — under the will of — or under an Indenture dated — between, &c., —, or a Mortgage dated — between — or a Policy of Insurance granted by — Mutual Insurance Company\* — or the lien of (a) — as a Vendor for the purchase money or part.*)

If the incumbrances be many, it will be better to name them in the Schedule. as authorized by the Statutory form, rather than embody them in the petition.

(*In case any charges or incumbrances, apparently existing, be not admitted, so that the petitioner is not willing to take a certificate subject thereto, and the petitioner denies the same, or claims paramount or adversely thereto, then the petition will be varied, and such charges, &c., will be set out as in the Statutory form "That the only persons claiming any charges, &c.," Thus, if a petitioner is willing to take a Certificate subject to an incumbrance, he excepts it; if, however, he claims adversely to it, as for instance, contending that the incumbrance is barred by time or by payment, and by presumption of reconveyance or otherwise, he sets forth the incumbrance as in the form, and those claiming under it will be regarded as adverse claimants, and the certificate will be subject to their claim, or on proper proceedings, and notice to them, they will be barred.*)

(*If the names of parties having any estate or interest cannot be ascertained, as in case of absent heirs, it will suffice to describe them by nomen collectivum as the heirs at law of, &c.*)

MEM. 1. Petition to be signed by applicant or solicitor, with address, so that the acting Referee may communicate with him by mail, if necessary.

2. Endorse petition with the name of any local Master, or of one of the Referees of Title in Toronto. See Orders, Nos. 4, 5, 6, of 1867.

If a local Master be selected as Referee, and not one of the Toronto Referees, then one of the latter must act as

A. See sections 1, 2, 3, and Schedule A.

\* Under Con. Stat., c. 52, s. 67, the interest of the insured in the property stands pledged to the Company.

Inspector, Order 5. On the petition is to be endorsed the name of one of the Inspectors, Order 4, who will act as such, and with whom the master will correspond for advice, &c., Order 7.

Where a local Master is selected as Referee, and the name of an Inspector is not endorsed, the Toronto Referees will act in rotation, Order 5.

If the petitioner desires, he can refer at once the petition to one of the Toronto Referees, without the intervention of any local Master, in which case the endorsement will be of the name of such Toronto Referee only, and he will hear and correspond by mail, as the case may require.

3. Where a local Master is selected as a Referee, the petition must be sent to the Inspector, whose name is endorsed for entry before filing. See Order 6, of 1867. The prior stamping the petition is advisable, as in such case the Inspector can file it once with the Registrar, instead of returning it to the Solicitor to be stamped.

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FORM OF REGISTRAR'S CERTIFICATE UNDER  
S. 3, SUB-SEC. 3, OF THE ACT.

813.  
Registrar's  
certificate  
under s. 3,  
sub-sec. 3 of  
the Act.

I, — Registrar, (or Deputy Registrar), of —, certify that there are no instruments or proceedings registered in the Registry Office for —, affecting the lands hereinafter named (*describe them in manner as they will require to be set forth in Certificate of Title*),\* except (*specify, if any, giving names of parties, their Solicitors, if any, and addresses, if any, in cases of proceedings in Chancery, or the County Court on its equity side.*)

(Signed), —

MEM.—As to the necessity of this certificate, see sec. 5, 1, 2 and 3 of the Act. This certificate must be obtained after the registry of the filing of the petition.

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\* The Registrar must necessarily specify the land to which his certificate relates with particularity, and hence it will be seen that this is one reason why the petition must also do so, otherwise the petition and Registrar's certificate would not be identical.—See further note in Form of Petition.

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814.  
Affidavit of  
petitioner in  
support of  
petition.

# AFFIDAVIT OF PETITIONER IN SUPPORT OF PETITION.

## IN CHANCERY.

In the matter of ———

I, ——— of ———, the applicant in the above matter, make oath and say:—

1. I am the owner of the estate (*or interest*) claimed by me in my petition in this matter, (*or repeat as in the words of the petition*) subject only to the charges and encumbrances set forth in the petition, (*or in the schedule thereto, or that there is no charge or incumbrance affecting the lands.*)

2. That the deeds and evidences of title which I produce in support of my application herein, and of which a list is contained in the schedule of particulars provided by me in support thereof,\* and herewith shown to me and marked with the letter A, and also the title deeds and evidences of title in my possession or power, and the following title deeds and evidences of title are in the possession or power of ———, of ———, namely (*specify them, or if numerous name them in a schedule, in which case the affidavits will be varied accordingly, and marked and identified*), and that as regards the following title deeds and evidences of title, I am not aware who has the custody or control thereof, namely, (*specify or give schedule as above*) and that for the said title deeds and evidence whereof I am not aware who has the possession, I have caused the following search to be made, namely, (*shew sufficient to let in secondary evidence.*)

3. I am not aware of the existence of any claim adverse to or inconsistent with my own to any part of the land claimed by me, or to any interest therein, (*except—specify the adverse claim if any, with name and address of claimant if known, and how the claim arises.*)

4. I am (*or John Doe, yeoman, is*)† in possession of the land (*shew under what claim, right or title; and that to the best of my knowledge possession has always accom-*

In case a prior certificate or abstract has been given, take the following as a further form:—

I certify that no instruments or proceedings have been registered in the Registry Office of ——— up to this date, except as above mentioned, and except the following, which are registered since the date of the above certificate.

\* The Commissioner administering the affidavit should identify the instruments as usual.

† The fact of an adverse claimant being in possession will not prevent an application being made, of course notice will be given to the occupant, and he will be barred or not according to the circumstances.

*panied the title*) under which I claim *(or how otherwise)\** *(or say,)* always since the year — accompanied the title under which I claim, in which year one — through whom I claim took possession, and prior thereto the land was in a state of nature. If an adverse claimant has been dispossessed by process of law or otherwise, state the fact and give particulars.

If the applicant cannot give a complete account as to possession, or can give none at all, let him shew some sufficient reason therefor.

5. To the best of my knowledge, information and belief, this affidavit and the other papers produced herewith in support of my application, which are set forth in the said schedule of particulars, fully and fairly disclose all facts material to my title, and all contracts and dealings which affect the same or any part thereof, or give any right as against me.

6. I am not aware of any Insurance effected with any Mutual Insurance Company, by any former owner of or person interested in the said lands or any buildings thereon, nor do I believe there was any such, nor have I myself effected any such insurance, *(or say, that there never were any buildings, if the fact be so, or as the facts may be.)*

7. That there are no arrears of taxes on the said lands.

8. That to the best of my knowledge and belief, no person or body corporate has any right of way, or of entry, or of damming back water, or of overflowing, or of placing or maintaining any erection, or of preventing the placing or maintaining any erection, on, in, to or over the said lands, other than myself, *(and give names and addresses, if possible, of any parties having any easement or right, and state the nature thereof,)* and the said land is not subject to any easement or dominant right whatever *(except as aforesaid.)*

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\* See order No. 10, 1867.—It will generally suffice to go back 20 years only as to possession going with the title.—Where possession does not accompany the right of possession, and some other than the person claiming has been or is in possession without or against the assent of the claimants or of any one through whom he claims, suspicion at once arises that such occupant had or has some claim or title.—Possession indeed is *prima facie* evidence of seizin in fee.—The applicants therefore must displace any possession except under the claim of title, or if any has existed, account for it, and remove the suspicion which will otherwise exist in the mind of the Referee; unless satisfactorily accounted for it is probable that the Referee would require notice of the application to be given to the occupant.—Adverse possession at the time of applying will not prevent the Statute applying, and on proper proceedings the occupants may be barred.

**815.**  
Certificate of  
counsel, s. 5,  
clause 6, and  
s. 8, Quiet-  
ing Titles Act.

**In Chancery:**

In the matter (*as to heading see ante.*)

— I, — of — (*Barrister or Attorney at Law*) hereby certify that as (*Counsel or Solicitor*) for — in this matter, I have investigated his title set forth in his petition, and I believe him to be the owner of the estate which he claims in the petition (subject only to the charges and incumbrances therein set forth).

I further certify that I have conferred with the Applicant on the subject of the various matters set forth in his affidavit in support of his petition and believe the same to be true.\*

**816.**  
Schedule of  
particulars  
under Quiet-  
ing Titles Act.

Sec. 5, clause 7, should be headed "In the matter," and signed, and identified in the usual way by the Commissioner as the exhibit referred to in the affidavit of the petitioner.

Everything produced must be enumerated in the Schedule, and shortly therein described; and on each deed, memorial, affidavit, &c., produced, should be endorsed an alphabetical letter, and the same letter should appear in the Schedule, opposite to each. The Judge may dispense with proofs, &c. The Referee acts as Judge (see sec. 5 of the Act.) Where *viva voce* evidence has to be given, the proof is necessarily dispensed with till a future stage.

*Form of Schedule of Particulars*

- 1, A, Affidavit of John Doe.
- 2, B, Conveyance, Brown to Jones, dated
- 3, C, Letter, Jones to Robinson, dated
- 4, D Probate Robinson's Will.

Petitioner to sign Schedule, and Commissioner to identify it in the usual way, as it is an exhibit and referred to as such in the affidavit of applicant.

**817.**  
Certificate of  
payment of  
taxes, sec. 16,  
Quiet-  
ing Titles Act.

— TREASURER'S OFFICE, CO. OF YORK,  
TORONTO, Ontario, — day of — 18—.

I certify that no charge for arrears of taxes appears at the date hereof on the books in this office against the

\* The Counsel or Solicitor is of course not bound by the petition, and if any claim or charge or material fact or matter exists not set forth in the petition, he should mention it.—The Petitioner in such case should reconsider the Petition.

following lands in the County of York, viz.: Lot No. 27, in the first concession of the Township of Vaughan.

*And I certify that the Assessment Roll for the year 18— has been deposited in this office.*

A. B., *Treasurer.*

If the Roll has not been carried in, the certificate must be signed by the Treasurer without the words in italics, and a similar certificate for the past year must be signed by the Township Treasurer with those words; and if the Roll has not been returned to him, a receipt for the taxes for the past year by the collector of taxes will be sufficient, but the Treasurer's certificate will be required to shew that there are no previous arrears of taxes.

SHERIFF'S OFFICE, TORONTO,  
County of York.

818.  
Sheriff's certificate as to sales, under Quiet-  
ing Titles Act.

I hereby certify that Lot No. 27 in the first concession of Vaughan in the said County, has not been sold by me under any writ of execution since the — day of —, 18—,\* nor for taxes since the — day of —, 18—,† up to the present date.

Dated the — day of —, 18—.

A. B., *Sheriff.*

SHERIFF'S OFFICE, TORONTO,  
County of York.

819.  
Sheriff's certificate as to executions, under Quiet-  
ing Titles Act.

I hereby certify that I have no writs of execution in my office against the lands of A. B., C. D., E. F., or any or either of them, at the date hereof.

A. B., *Sheriff.*

NOTE.—The Court allows the Sheriff 25 cents for each search, and 50 cents for the certificate, in which all the names are to be inserted.

\*Six months previous to the registry of the certificate that the petition is filed.

† One year and six months previous thereto.



820.  
Affidavit of  
Crown debts,  
under Quiet-  
ing Titles Act.

Note, if the applicant wishes to avoid the expense of this Affidavit, and of the requisite searches, he may, in his petition, except the claim of Her Majesty.

In Chancery :

In the matter of, &c.

I, A. B., of ——— make oath and say, that I have carefully searched the Register in the Office of the Clerk of the Court of Queen's Bench, in Toronto, and I say that there has not been registered therein, any Deed, Bond, Contract or other instrument, whereby any Debt, Obligation or Duty, was incurred or created to Her Majesty on the part of Henry Thomas, the petitioner, in this matter, or on the part of C. D. E. F., &c.,\* save and except the several Bonds or Instruments named, and set forth in the Schedule hereunder written.

*The Schedule above referred to.*

No. of Instrument.	Date of Instrument.	Instru- ment.	Penal Sum.	For what purpose executed.
7907.	29th May, 1847.	Bond.	£500.	Surety for A. B. Custom's Officer Division Court Clerk or other Officer.
8111.	25th Jan., 1850.	Bond.	£1000.	The like.

821.  
Advertis-  
ment s. 12,  
Quieting  
Titles Act,  
and Order No.  
13 of 1867.

In Chancery :

In the matter of\*

Notice is hereby given, that John Thomas, of the City of Toronto, Esquire, hath made application to the Court of Chancery for a Certificate of Title to the above mentioned property, under "The Act for quieting Titles to Real Estate in Upper Canada," and hath produced evidence, whereby he appears to be the owner, (*describe the interest, as it will be set out in the Certificate of Title*), wherefore, any other person, having or pretending to have any title to or interest in the said land or any part thereof, is required on or before ——— day the ———

\* Here name all persons who prior to the Statute 29 & 30 Vict., c. 43, have had any estate in the land.

For necessity for Registry of Crown Debts, see Con. Stat., c. 5.

Since 15th August, 1866—29th and 30th Vic., c. 43. Crown debts there-  
after incurred, no longer bind the lands of the obligor as theretofore.

\* The Referee prepares the advertisement, see Order 13 of 1867. He is not bound by the heading given by the Petitioner in his petition, if he thinks it does not sufficiently give notice to the world, and he should act accordingly.

now next ensuing to file a statement of his claim in my office, and to serve a copy on the said John Thomas, or on ——— his Solicitor, in this matter, at his office in the City of London, (*or elsewhere as may be*), and in default, every such claim will be barred, and the title of the said John Thomas become absolute and indefeasible at Law and in Equity, subject only to the reservations mentioned in the 17th Section of the said Act therein mentioned, numbered ——— and to the following charges and incumbrances.\*

To be inserted in the Canada Gazette on the 1st and 15th days of ——— next, and in the ——— on the 8th and 23rd days of the same month, or on the day of publication, in the week ending nearest to those days, and to be put up and continued on the door of the Court House of the County, and in some conspicuous place in the Post Office nearest to the lands. (See Order 13.)

Dated this ——— day of ——— 18——

(Signed),

Referee of Titles.

In Chancery:

In the matter of  
by direction of ——— of ——— the Referee in this matter, you are hereby notified that ——— of ——— hath made an application to the Court of Chancery for a Certificate of Title to the above property, subject to your claim, (*as set out in the petition.*)

822.  
Notice under  
Quieting  
Titles Act.

Lot No. 6, and South half of Lot No. 5, in the first concession of the Township of Vaughan, in the County of York.

JOHN THOMAS, *Petitioner.*

HENRY SCOLLER, *Solicitor.*

823.  
Analysis by  
Master, under  
Quieting  
Titles Act.

\* If a petitioner desires that charges and incumbrances should not appear in the advertisement, at his request they may be omitted, but in such case the owners of the charges or incumbrances must be served with a notice by mail or otherwise, stating that by direction of the Referee, their claims are excepted as set forth in the Petition, (*and mentioning to what extent they are admitted as existing*). See the form below.

A copy of this notice must be sworn to as mailed [with the address to which mailed] and produced to and filed with the Referee.

<p>No. 1. Petition filed 1 June, 1857.</p> <p>2. Affidavit.</p> <p>3. Schedule of Papers.</p> <p>4. Certificate of Solicitor</p> <p>5. Registrar's Abstract.</p> <p>6. Sheriff's Certificate— No Writs of Execution.</p> <p>7. No Sales for Taxes, or under Executions.</p> <p>8. Statement of facts.</p> <p>9. Affidavit as to Cr. Debts, Proceedings with any Affidavits as to possession, dower, &amp;c., or other incumbrances.</p>	<p>Date of filing with Referee.</p> <p>Must be signed by petitioner, and marked as Exhibit by Commissioner.</p> <p>Must be carried down to Registrar's Certificate that petition is filed.</p> <p>See as to these Certificates the several Forms ante.</p> <p>This may be made by either the petitioner or his Solicitor.</p> <p>This must specify the purpose for which the Bonds were executed.</p>
<p>INSTRUMENTS. OF CONVEYANCE</p>	<p>These Notes are for the purpose of drawing the Referee's attention to the several proofs required.</p>
<p><i>6th April, 1797.</i></p> <p>A. The Crown to Peter Lee, in fee.</p> <p><i>28th April, 1845.</i></p> <p>B. Timothy Hespeler to David Scott, in fee.</p> <p>C. David Scott to Timothy Hespeler, redeemable.</p>	<p>If not produced, a certified copy must be obtained and produced before the papers are laid before the Referee.</p> <p>The title must be deduced from the Patentee to the first grantor, say Hespeler, and possession must be shewn in Hespeler and the subsequent owners. If the deed was executed by Attorney, the power must be proved, and Hespeler must be shewn to be living when the deed was executed under the power, and that he was not married, or that his wife's dower was barred.</p> <p>Means that it was a mortgage.</p>

## ANALYSIS OF TITLE, &amp;c.—(Continued.)

INSTRUMENTS OF CONVEYANCE	These Notes are for the purpose of drawing the Referee's attention to the several proofs required.
<p>29th June, 1867. CC. Timothy Hespeler to John Thomas, Petitioner.</p>	This Deed of Release merged and extinguished in the mortgage.
<p>10th June, 1845. D. David Scott to Samuel Reed, in fee</p>	
<p>Same date. E. Reed and ux to David Scott, redeemable.</p>	Was Scott married, if so, the dower of the wife must be shewn to be extinct, or it must be barred.
<p>2nd February, 1847. EE. David Scott to Robert Cathcart, Assignment.</p>	
<p>1st June, 1846. F. Reed devised to Ross and others, as Trustees, with power to sell.</p>	If a mortgage is stated to be discharged, copy of discharge certified must be produced.
<p>3rd February, 1847. G. Ross and others, Trustees, sell and convey to Andrew Gray, in fee.</p>	
<p>Same date. H. Gray and ux to Ross and others, redeemable.</p>	If deeds are not produced, they must be so, or good cause shewn.
<p>27th December, 1849. I. Ross and others to Andrew Gray.</p>	
<p>27th April, 1850. K. Gray et ux. to Francis Green, in fee.</p>	

824.  
Another form  
of Analysis.

The following is a further form, the first column giving the dates and parties, the second the remarks and defects, and the third shewing how cleared up or disposed of. It will be found advisable to write *across* a foolscap sheet so as to give sufficient space, and to allow more space for the second and third than for the first column.

PARTIES, DATES, &c.	DEFECTS, REMARKS.	HOW DISPOSED OF.
1st January, 1840. A. Copy of Patent to John Doe, in fee.	Not certified as copy.	Certified copy produced.
6th January, 1841. B. Devise in fee, John Doe to Richard Roe.	Attestation clause does not shew how will executed.	Heir at law has executed confirmation.—See Deed Letter.
10th June, 1850. C. Certified copy by Registrar of Memorial, Richard Roe to John Dunn, in fee, signed by grantor, and of affidavit of execution.	No evidence of proper search for original instrument.	Affidavits of A. B. and C. D. of proper search.
1st June, 1860. D. Robert Doe to John Dunn, in fee—Confirmation of devise.		

In Chancery :

In the matter of

Take notice that John Doe, of the City of Toronto, Esquire, hath made an application to the Court of Chancery for a certificate of his Title to the above mentioned property, under "The Act for quieting Titles to Real Estate in Upper Canada," claiming to be entitled thereto as (*set out as in petition*); and take notice that if you claim any interest therein you must lodge your claim in writing, stating the particulars thereof, at my chambers in \_\_\_\_\_, on or before the \_\_\_\_\_ day of \_\_\_\_\_, now next ensuing, and serve a copy on the said John Doe, (*give address*) or Richard Roe, his Solicitor, at his office in (*give address*), and, in default thereof, any claim, right, or interest you may have therein at law or in equity will be for ever barred and extinguished.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

*Referee of Titles.*

To (*name the parties to be served, with their address*).

In Chancery :

In the matter

A. B. of

(occupation)

claims to be owner of the said lands (*or of part of the said lands*) described as follows :\*

(Signed),

A. B.

\* or D., Solicitor for A. B., *give address*.

This should be filed with the affidavit required by Section 20, with the Referee who is acting. It is advisable at the foot to add the Post Office address.

In Chancery :

In the matter of, (*as in notice to file*).

I, A. B., of \_\_\_\_\_ make oath and say, that to the best of my knowledge and belief, I am the owner of the estate (*or interest*), which is claimed by me in my notice of claim in this matter,† now produced to me marked with the letter A, subject only to, &c., (*as the case may be*)

\* And he so claims, as the mode of the claim can be framed from the form of claim of an applicant, see ante form of petition.

† This should be referred to as an exhibit and marked by the Commissioner.

826.

Notice to a person apparently interested, s. 14, 19 of Quieting Titles Act, and Order No. 14 of 1867.

826.

Adverse claim under Quiet-ing Titles Act, s. 19.

827.

Affidavit verifying adverse claim, s. 20, Quiet-ing Titles Act.

828.  
Memorandum  
of finding of  
Master, s. 20,  
Quieting  
Titles Act.

Memorandum of finding of Master on defective proofs of Title, under order No. 12, to be delivered to the Petitioner, or his Solicitor.

In the matter of Lot, &c., &c., I have perused this Title, and I find the proofs thereof defective in the following particulars, *(set them forth shortly, in some such form as the following).*—

1. The Dower of Mary, the wife of James Harris, does not appear to be effectually barred, she not having executed the deed or not having been examined before a Judge or Magistrate, no receipt for consideration money is endorsed on Deed from Jones to Smith, and no evidence is given to meet the difficulty.

3. The discharge of the mortgage to Henry Brock is not produced.

4. There is no evidence that Isaac Brock was living when his conveyance by Attorney to John Johnson was executed.

5. The will of Thomas Brock has not been produced.

6. It is not shown that John Ross was not married when he conveyed.

7. The Estate descended to Mary the wife of John Gray, as heiress of Thomas Gray, who became the wife of John Brigham. She conveyed, and the husband did not join; by this conveyance nothing passed; if the husband be living a new conveyance must be obtained, or if she be dead her heirs must convey, and the husband if living must release his Tenancy by the Curtesy.

8. The will of Abraham Oldham does not seem to pass a Fee but to create an Estate Tail and this must be barred. (See Cons. St. C. 83).

9. There is no proof of the heirship of Joseph Styles.

A. B. Referee.

3rd January, 18—,

829.  
Costs of Peti-  
tioner under  
Quieting  
Titles Act.

This bill of costs is intended merely to serve as a guide to the profession, and that in simple cases only.

In Chancery :

In the matter of Lot No. 9, on the 3rd Concession of the Township of Oro.

The Petitioner's costs in obtaining Certificate.

Instructions for Petition.....\$2 00  
Drawing petition per fo..... 0 20

Copy to file.....	\$0 10
Attending Registrar to bespeak, and for Abstract of Deeds and copies of Memorials of such as are not held by Petitioner.....	1 00
Paid Registrar's Fees.....	
Attending Sheriff for Certificates.....	1 00
Paid Sheriff.....	
Attending to search for Crown debts against Crown debtors.....	
For each search.....	0 50
Paid Clerk of Queen's Bench for each search.....	0 50
For every necessary Affidavit, as to Crown debts, dower, possession, loss of deeds, or other matter in support of Title, per folio.....	0 20
For each copy, per folio.....	0 10
Attending to swear, for each, 50 cents, paid 20 cents	
Attending County Treasurer for Certificate, Taxes paid.....	0 50
Paid for same.....	
The like on Township Treasurer, where necessary	0 50
The like on Collector, where necessary.....	0 50
Drawing Petitioner's Affidavit and copy, per folio...	0 20
Attending to swear, 50 cents, paid 20 cents.....	
Drawing state of facts, where necessary, see Statute, sec. 5, sub-sec. 4, per folio.....	0 20
Copy thereof, per folio.....	0 10
Drawing Schedule of Deeds and paper, per folio...	0 20
Copy for Referee.....	0 10
Drawing certificate of Solicitor or Counsel as to state of title and fee thereon .....	2 00
(To be increased according to the nature of the case.)	
Writing, with foregoing Petition to Inspector, 50 cents stamp thereon for registration, 10 cents.....	0 60
Paid Inspector.....	8 00
Attending Referee with deeds and papers and comparing same with Schedule.....	1 00
Attending Referee for advertisement and notice for service on parties who may have claims.....	0 50
Copy of advertisement for Gazette.....	0 30
Writing with and forwarding.....	0 50
Paid for insertion and for Gazettes.....	
Copies for local newspaper and letter therewith, if ordered by Referee.....	0 50
Copy to affix to Court House door .....	0 30
Paid affixing.....	
Copy to be affixed in Post Office.....	0 30
Paid getting same affixed.....	



Affidavit as to insertion in Gazette, local newspaper, and as to affixing same on Court House door and at Post Office, each.....	\$0 50
Attending to swear, each.....	0 50
Paid swearing and Exhibits.....	
Copy notice to serve on each party [as directed]...	0 30
Attending Sheriff with same to serve.....	0 50
Paid Sheriff service and for mileage, 10 cents per mile.....	
Affidavit of service on each party, 40 cents, and oath and Exhibit .....	
Attending to file affidavits with Referee.....	0 50
Attending Referee when satisfied with Title to forward papers to Inspector.....	
Attending to remit stamps on Registrar's fees for Registrar's certificate.....	0 50
Paid for same.....	
Attending County Registrar with certificate for registration .....	
Paid his fees.....	
Attending for same when registered.....	
Paid postages throughout the matter.....	
Bill of costs and copy.....	1 00

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## CHAPTER XXVII.

### FORMS AND PRECEDENTS OF PLEADINGS.

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#### PRECEDENTS OF BILLS AND FORMS OF PRAYER.

##### 1. *Precedents of Bills* (\*).

*Title, and address of Bill* : see ante, No. 135-146 *et seq.*

Humbly complaining &c., G. B. S., of &c., on behalf of himself and all other the creditors of S. C., late of, &c., deceased, the above named plaintiff, as follows :

1. The said S. C. was, at the time of his death, indebted to the plaintiff in the sum of £4 19s., for, &c. ; and the said S. C. was also at the time of his death indebted to various other persons by specialty and on simple contract.

**830.**  
Bill by a creditor, for administration of the real and personal estate of his debtor.

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\* The forms of Bills prescribed by our Order 75, will be found ante, Nos. 135 *et seq.* The following forms, from No. 830 to No. 838, inclusive are taken from Daniell's Forms. The subsequent ones are taken from pleadings actually used in our own Courts.

2. The said S. C. being so indebted, and being possessed of, or well entitled to, considerable real and personal estate, died on or about, &c., intestate.

3. The said S. C. was never married; and he left the above named defendant A. M., the wife of the above named defendant G. M., his only sister and his sole next of kin and heiress-at-law, him surviving.

4. The real estates of or to which the said S. C. was seized or entitled at the time of his death were charged by way of mortgage with various sums of money, amounting to a very large sum in the whole.

5. On or about, &c., letters of administration of the goods, chattels and effects of the said S. C. were granted to the defendant G. M. by Her Majesty's Court of Probate.

6. The defendant G. M. has not paid the debt so due to the plaintiff as aforesaid, but the same still remains due and unpaid.

Prayer.

The plaintiff prays as follows:

1. That an account may be taken of what is due to the plaintiff and all other the creditors of the said S. C.; and that the amount so due may be paid out of the real and personal estate of the said S. C., in a due course of administration, by and under the direction of this honourable Court; and that for that purpose, all necessary directions may be given, inquiries made, and accounts taken.

2. *General relief: see ante, No. 135.*

The defendant (&c.: *Conclude as in No. 135, ante*).

*Title—and address of bill: see ante, No. 135.*

Humbly complaining, &c., J. S., of &c., an infant by J. I., of &c., his next friend, the above named plaintiff, as follows:

1. The plaintiff's father J. S., late of &c., yeoman, died on &c., intestate: leaving the plaintiff (who was born on, &c.) his only child, his heir at law, and his sole next of kin; and leaving the plaintiff's mother, the above named defendant M. S., his widow. Letters of administration of his personal estate and effects have been granted to the defendant by Her Majesty's Court of Probate. The said J. S. died seized of and entitled to real estate of great value: which has descended on the plaintiff; and possessed of and entitled to personal estate: to which, or to a share of which, the plaintiff is entitled. The said J. S. died indebted to

831.

Bill by infant heir at law and next of kin, against the widow and administratrix, for general administration of the real and personal estate, and to make plaintiff a ward of Court.

various persons, and his debts have not been paid. The defendant claims to be entitled to a distributive share of the personal estate, and to dower out of the real estate, of the intestate.

Prayer.

The plaintiff prays as follows:

That the real and personal estate of the intestate J. S. may be administered, and proper provision made for the plaintiff's maintenance and education, by and under the direction of this honourable Court; and that the plaintiff may have such further protection and relief as his case requires.

The defendant (*&c.* : *Conclude as in No. 135 ante*).

832.

Bill by a married woman, for administration of real and personal estate of a testator.

*Title—and address of bill* : see ante, No. 135.

Humbly complaining, *&c.*, E. M. C. of, *&c.*, the wife of the defendant J. C., by H. J. A. of, *&c.*, her next friend the above named plaintiff, as follows :

1. E. A., late of, *&c.*, esquire, deceased, was at the time of his death seized of, or entitled to, certain freehold and copyhold messuages, lands, and hereditaments ; and was also possessed of personal estate to a considerable amount.

2. The said E. A. duly made and executed his last will and testament dated, *&c.*, and thereby [*&c.* : *Statement showing general devise and bequest of real and personal estate to A. B., and defendants W. F. and C. W., upon trust to convert, pay debts, legacies, funeral and testamentary expenses and invest ; and then in trust for the plaintiff for life, for her separate use, with remainder to her children ; and, in default of children, for the defendant Z. F. ; and showing appointment of A. B., and defendants W. F. and C. W., executors*].

3. The said testator died on, *&c.*, without having revoked or altered his said will ; and the same was duly proved by the said A. B., and the defendants W. F. and C. W. in Her Majesty's Court of Probate at the — Registry, on the —, 18—.

4. The plaintiff has never had a child.

5. The said A. B. died on, *&c.* : having duly accounted with the defendants W. F. and C. W. for all the receipts of the said A. B. up to the date of his death, in respect of the real and personal estate of the said testator ; and there is nothing due from or to the estate of the said A. B. to or from the estate of the said testator.

6. The defendant J. C. is now residing at —, out of the jurisdiction of this honourable Court.

7. Various claims have been made against the estate of the said testator, and difficulties have arisen in the administration thereof; and the defendants W. F. and C. W. allege that they cannot safely administer the said estate except under the direction of this honourable Court.

### Prayer.

The plaintiff prays as follows:

1. That the trusts of the will of the said E. A. may be carried into execution, and his real and personal estate administered, under the direction of this honourable Court; and that for that purpose all proper directions may be given, inquiries made, and accounts taken.

2. *General Relief: see ante*, No. 135.

The defendants (&c.: *Conclude as in* No. 135 *ante*).

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*Title—and address of bill: see ante* No. 135.

Humbly complaining, &c., D. J., of, &c., the above named plaintiff, as follows:

1. On or about the 12th of May, 1851, the defendant M. R., then of, &c., applied to the plaintiff for the loan of £150: which the plaintiff agreed to advance, as to £100 forthwith, and as to the remaining £50 when the defendant should apply for the same; and it was agreed that the defendant should give his promissory note for the said sum and interest, as hereinafter mentioned; and should deposit the title deeds hereinafter mentioned as a further security for such loan.

2. The plaintiff accordingly lent and advanced to the defendant the sum of £100 on the said 12th of May, 1851; and the defendant signed and delivered to the plaintiff his promissory note in the words and figures following: [*Promissory note set out.*]

3. At the same time the defendant deposited with the plaintiff the title deeds relating to a messuage, with the buildings, garden, and appurtenances thereto belonging, situate in the parish of E., in the county of S., commonly called or known by the name of Little Yard: which had been conveyed to the defendant in fee simple, to the usual uses to bar dower; but no memorandum of such deposit was then, or has since been, given to the plaintiff.

4. On or about the 4th of June, 1851, the defendant

833.

Bill by an equitable mortgagee, by deposit, for foreclosure or sale.

applied to the plaintiff to advance him the further sum of £50, in accordance with the agreement hereinbefore stated; and accordingly the plaintiff advanced the defendant the said sum of £50 on the said 4th of June, 1851; and the defendant signed and delivered to the plaintiff a promissory note in the words and figures following: [*Promissory note set out.*]

5. In or about the month of June, 1852, the defendant applied to the plaintiff to advance him the further sum of £60 for a week, under special circumstances, in order to save him the expense of a journey to London; and the defendant agreed to repay the plaintiff the sum of £60 in a week's time, and also 10s. for the accommodation. The plaintiff accordingly advanced and paid the said sum of £60 to the defendant: who at the same time gave him an unstamped memorandum in the words and figures following: [*Memorandum set out.*]

6. The defendant made default in payment of the said sum of £60 and interest; and in the month of July or August, 1852, the plaintiff had an interview with the defendant, and then proposed that the defendant should execute to him a legal mortgage of the said freehold premises, of which the title deeds had been so deposited as aforesaid: together with certain leasehold property at C., which the defendant then stated he had recently agreed to purchase: to secure the said several loans and interest thereon, at the rate of £5 per cent. per annum: to which proposal the defendant agreed; but such mortgage was never completed.

7. The whole of the three several sums of £100, £50, and £60: amounting together to the sum of £210: together with interest thereon, still remains due from the defendant to the plaintiff.

8. The defendant subsequently became involved in pecuniary difficulties; and on or about the 18th of October, 1852, he left his home, and has not since been seen or heard of: although repeated and diligent inquiries have been made for him.

#### Prayer.

The plaintiff prays as follows:—

1. That an account may be taken of what is due to the plaintiff on security of the said deposit of deeds; and that the defendant may be decreed to pay to the plaintiff what shall, on taking the said account, be found due to him: together with the costs of this suit: by a short day to be appointed for that purpose; and, in default of

such payment, that the defendant may be forever barred and foreclosed of all right and equity of redemption in the said hereditaments at E. aforesaid; and that the said hereditaments and the legal estate therein may be conveyed to the plaintiff: or otherwise that the same may be sold; and that the produce of such sale may be applied to the satisfaction of what shall be found due to the plaintiff; and for the above purposes that all necessary directions may be given.

2. That some proper person may be appointed by the order of this honorable Court to receive the rents and profits of the said hereditaments.

3. *General relief: see ante, No. 135.*

The defendants (&c.: *Conclude as in No. 135, ante.*)

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*Title and address of bill: see ante, No. 135.*

Humbly complaining, &c., A. B., of, &c., the above named plaintiff, as follows:

1. In and previously to the month of June, 1851, the plaintiff was absolutely entitled to a certain estate called, &c., situate at, &c., in the county of ———.

2. On the ——— day of June, 1851, the defendant agreed to purchase the said estate; and a memorandum of such agreement was reduced into writing, and duly signed by the defendant. Such memorandum was in the words and figures, or to the purport and effect following: [*Memorandum set out.*]

3. The plaintiff has frequently applied to the defendant, and requested him to perform the the said agreement; but he has refused or neglected to do so.

#### Prayer.

The plaintiff prays as follows:

1. That the defendant may be decreed specifically to perform the said agreement of the ——— day of June, 1851: the plaintiff hereby offering specifically to perform the said agreement upon his part; and that for the purposes aforesaid all proper directions may be given, and inquiries made.

2. *General relief: see ante, No. 135.*

The defendant (&c.: *Conclude as in No. 135, ante.*)

834.

Bill for specific performance of agreement for purchase of an estate.

## 835.

Bill by executors of mortgagee, for specific performance of agreement to take a transfer: or for foreclosure or sale.

*Title—and address of bill: see ante, No. 185.*

Humbly complaining, &c., T. M., of, &c., W. S., of, &c., and J. C., of, &c., the above named plaintiffs, as follows

1. On the 7th day of May, 1852, G. C., late of R., deceased, lent and advanced to the defendant E. V. the sum of £3000 on the security hereinafter stated.

2. For securing the said sum of £3000 and interest the defendant E. V. signed and delivered to the said G. C. the following agreement: [*Articles of agreement set out, verbatim: by which, after reciting the deposit of a lease, a policy of assurance, and gas shares, with G. C., E. V. declared that they were deposited as a security for £3000, and interest at 5 per cent; and E. V. charged the leasehold property, the policy, and gas shares, and also a certain rent charge to which he was entitled in reversion with the payment of the money and interest; and E. V. agreed, when required, to execute a mortgage and transfer of the said premises, shares, policy of assurance and rent charge: with power of sale, and such other clauses as G. C. should require.*] The defendant E. V. at the same time deposited with the said G. C. the several documents mentioned in the said agreement.

3. The said G. C. died in the month of April, 1853: having first duly made and published his last will and testament in writing, and thereby appointed the plaintiffs executors: who, after his decease, proved the same in the Prerogative Court of the Archbishop of Canterbury.

4. The said sum of £3000 is still due and owing on the said security with interest thereon.

5. The defendant T. E., by letters signed by him, agreed with the plaintiffs, that if they would postpone giving notice of the said agreement to the tenants of the said property, and to the said gas and insurance offices, he would take a transfer of the said security. The plaintiffs accordingly, relying on such agreement, forbore to give such notice; but the defendant T. E. now refuses to perform his said agreement. The defendant T. E. acted in the said matter in concert with the defendant E. V., for the purpose of delaying the plaintiffs' proceedings against him, and enabling him to dispose of portions of his property; and the defendant E. V. has accordingly realized portions of his property, and placed the same out of the hands of his creditors.

Prayer.

The plaintiffs pray as follows:

1. That an account may be taken of the amount due and owing on the said security.

2. That the said agreement with the defendant T. E. may be specifically performed; and that the defendant T. E. may be decreed to pay to the plaintiffs the amount due on their said security with the costs of this suit: the plaintiffs being willing, and hereby offering, on such payment, to transfer to him the said security; or otherwise that the amount so due: together with the costs of this suit: may be paid to the plaintiffs by the defendant E. V., by a short day to be appointed for that purpose; and that in default of such payment the defendant E. V., and all persons claiming under him, may be debarred and foreclosed of and from all right and equity of redemption in the said mortgaged premises; and may be decreed to convey and transfer the same to the plaintiffs; or otherwise that the said mortgaged premises may be sold, and the proceeds thereof applied in payment of the amount due on the said security, and the plaintiffs' costs of this suit.

8. That some proper person may be appointed, under the order and direction of this honourable Court, to collect, receive, and get in the rents and profits of the said leasehold premises, and the dividends of the said shares, and the said rent charge: when the same shall become payable.

4. *General relief: see ante, No. 135.*

The defendants (&c.: *Conclude as in No. 135 ante*).

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*Title—and address of bill: see ante, No. 135.*

Humbly complaining, &c., J. T., A. T., W. T., and H. T., all of, &c., the above named plaintiffs, as follows:

1. Before and at the time of the making of the letters patent next hereinafter mentioned the plaintiffs had discovered and were the sole, true, and first inventors of the improvements in machinery for the manufacture of looped or knitted fabrics in such letters patent mentioned; and no other person before or at such time made, used, exercised or vended the said improvements or invention.

2. On the 10th of October, 1855, her present Majesty, by letters patent of that day, under the Great Seal of Great Britain, did for herself, her heirs and successors, give and grant unto the plaintiffs her special license, that

**836.**  
Bill to restrain infringement of patent, and for account, and damages.



they, their executors, administrators and assigns, or such others as the plaintiffs, their executors, administrators and assigns, should at any time agree with, and no others, from time to time, and at all times thereafter, during the term of fourteen years from the date of the said letters patent, should and lawfully might make, use, exercise, and vend, within the United Kingdom of Great Britain and Ire and, the Channel Islands, and Isle of Man, an invention for "Improvements in Machinery for the Manufacture of Looped or Knitted Fabrics": upon the condition that the plaintiffs, their executors, or administrators, by an instrument in writing under their hands and seals, or under the hands and seals of one of them, should particularly describe and ascertain the nature of the said invention, and in what manner the same was to be performed, and cause the same to be filed in the Great Seal Patent Office, within six calendar months next and immediately after the date of the said letters patent: as by the said letters patent, when produced, will appear.

3. In pursuance of the said condition the plaintiffs, by an instrument in writing under their hands and seals, dated the 7th of April, 1856, and enrolled in the Great Seal Patent Office on the 9th of the same month of April, 1856, particularly described the nature of their said invention, and in what manner the same was to be performed: as by the said instrument in writing, when produced, will appear.

4. *Concise statement, from the specification, of the nature of the invention.*

5. The said letters patent have never been impeached; and the same have, from the day of the date thereof, remained and now are, in full force, and of valid and effectual authority; and the said improvement and invention was and is novel, useful and valuable; and from the day of the date of the said letters patent the plaintiffs have applied the said invention with great success; and have manufactured large quantities of looped fabrics, by means of machinery constructed according to the said invention; and have derived great profit from the manufacture of such looped fabrics.

6. The plaintiffs have never permitted any machines to be constructed according to the said invention for any person, except for themselves; and they have never granted any license to use the said invention to any person whosoever.

7. In the month of ———, the plaintiffs discovered, for the first time, as the fact is, that the defendant has

caused to be constructed for himself, and erected at L., several machines constructed according to the plaintiff's said invention, or upon the principle of, or only colourably differing from, the plaintiffs' said invention, and that by means of such machines the defendant is manufacturing large quantities of looped fabrics.

8. The defendant has made and is now making such goods as last aforesaid, and is selling the same: to the great prejudice and damage of the plaintiffs; and he has derived, and is now deriving, large gains and profits therefrom.

9. The defendant has sold the looped fabrics so manufactured by him by means of such machines as aforesaid, at a great reduction on the price at which they had been sold previously by the plaintiffs; and the plaintiffs have been thereby compelled to reduce their charges for manufacturing such looped fabrics: to the great loss and damage of the plaintiffs.

10. The plaintiffs have frequently applied to the defendant, and requested him to discontinue the use of their said invention, and the infringement of their said patent, and to come to an account with the plaintiffs for the profits made by the defendant by such use and infringement; but the defendant has refused to comply with such requests.

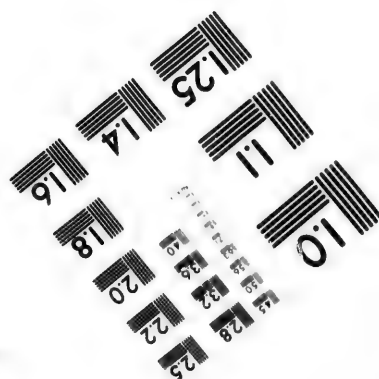
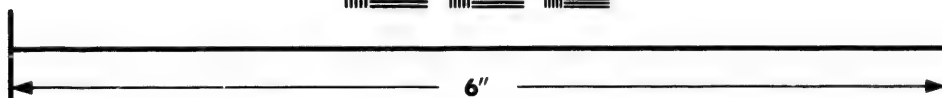
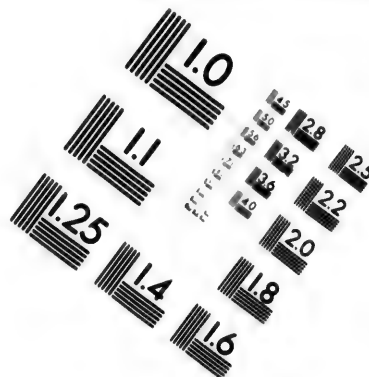
#### Prayer.

The plaintiff prays as follows:—

1. That an account may be taken of the profits made by the defendant from the sale of looped fabrics manufactured by him by means of machines constructed according to the plaintiffs' said invention, or constructed upon the principle of, or only colourably differing from, the said invention; and that the defendant may be decreed to pay to the plaintiffs what, upon taking such accounts, shall be found due from him.

2. That the amount of the damages sustained by the plaintiffs, by reason of the defendant infringing their said letters patent, beyond the amount which, upon taking the account aforesaid, shall appear to be the profits made by the defendant as aforesaid, may be ascertained by and under the direction of this honourable Court; and that the defendant may be decreed to pay such amount to the plaintiff.

3. That the defendant, his servants, agents, and workmen may be restrained, by the order and



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injunction of this honourable Court, from making, using, or selling machines for the manufacture of looped fabrics constructed according to, or upon the principle of, or upon any principle only colourably differing from, the plaintiffs' said invention; and from selling looped fabrics manufactured by means of any such machine: except such fabrics shall have been manufactured by the plaintiffs, or some person duly licensed by them.

4. That the defendant may pay the cost of this suit.

5. *General relief: see ante, No. 135.*

The defendant (&c.: *Conclude as in No. 135, ante.*)

837.

Bill for appointment of a receiver of real and personal estate, at the instance of alleged heir at law and next of kin; pending litigation as to his title.

*Title—and address of bill: see ante, No. 135.*

Humbly complaining, &c., S. W., of, &c., the above named plaintiff, as follows:

1. M. E., late of, &c., widow, was for many years prior and down to, and at the time of her death hereinafter mentioned, seised or otherwise well entitled in fee simple of or to real estate of large value: consisting of houses and hereditaments situate in the counties of M. and E., and elsewhere.

2. The said M. E. was also, at the time of her death, possessed of or entitled to a large leasehold estate: consisting of houses and hereditaments situate in the counties of M. and E., and elsewhere; and also of or to a large personal estate: consisting of moneys, securities for money, and other particulars of very large value.

3. The said M. E. died intestate on or about, &c., a widow, and without issue.

4. At the time of the death of the said M. E. the plaintiff was, and he is, her heir at law: being the eldest son of S. W. the younger, late of, &c., deceased, who was the only brother of the said M. E., and who died in her lifetime. The said S. W. the younger, and the said M. E., were the son and daughter of S. W. the elder of, &c., and M. his wife, who died many years ago.

5. The plaintiff was also at the time of the death of the said M. E., and he is now, one of her next of kin according to the statutes for the distribution of the estates and effects of intestates. The only other next of kin of the said M. E. were and are E., now the wife of J. G., A. W., and J. W.: the only other children of the said S. W. the younger who were living at the time of the decease of the said M. E.

6. Shortly after the death of the said M. E., untrue information was given to the solicitor of Her Majesty's Treasury that the plaintiff and his said brother and sister were illegitimate, and that the said M. E. had died without leaving any lawful heir or next of kin; and thereupon, and on the — day of —, 186—, a caveat was entered in Her Majesty's Principal Court of Probate by Her Majesty's Proctor, on behalf of Her Majesty, against the grant of letters of administration of the effects of the said intestate to any except such person as should be nominated by or on behalf of her Majesty.

7. The plaintiff, as such heir at law of the said M. E., has commenced divers actions of ejectment against the tenants in possession of divers parts of the said M. E.'s real estate, to recover possession thereof; and Her Majesty's Attorney-General has undertaken to defend such actions on behalf of the tenants in possession; but some considerable time must elapse before such actions can be tried, or the title of the plaintiff as such heir at law can be determined.

8. In the meantime the rents of the said M. E.'s real estate: which consists in great part of divers small houses and tenements, let to divers persons as weekly tenants: have run into arrear; and the tenants in possession refuse to pay any rent to the plaintiff; and very large sums are due in respect of the same rents; which are in danger of being lost, and in fact very large sums have already been lost in respect thereof.

9. The plaintiff has applied to her Majesty's Court of Probate for the grant of letters of administration of the estate and effects of the said M. E. to him, as the lawful nephew, and one of the nearest of kin of the said M. E.; but by reason of the grant of such letters being opposed by Her Majesty's Attorney-General, under the circumstances aforesaid, the right to such letters of administration is now under litigation; and some time must necessarily elapse before the right of the plaintiff thereto can be determined.

10. Under the circumstances aforesaid there is no personal representative of the said M. E.

11. For the reasons aforesaid, the rents of the leasehold estate of said M. E.: which consists of divers small houses let out to weekly tenants: are likewise in arrear, and in danger of being lost; and a large portion thereof has already been lost.

12. Moreover, the houses and buildings on the said estate are falling into bad repair, and they require consid-

erable outlay to keep them in proper condition; and the covenants to repair and insure contained in several of the leases under which the said M. E.'s leasehold estate is held have been broken; and the said leases are liable to forfeiture; and, indeed, the landlords of some parts of the said leasehold estate have already entered upon the same for breaches of covenant: whereby the same have become lost to the said intestate's estate.

13. The moneys and other personal estate of the said M. E. are likewise in danger of being lost for want of some person to collect and get in the same.

14. The plaintiff submits that some proper person or persons ought to be appointed to receive the rents and profits of the said M. E.'s freehold and leasehold estates, and to collect and get in her personal estate, as hereinafter prayed.

15. At the time of the death of the said M. E., there were in her house divers deeds, books, and documents belonging to her, and relating to her real and personal estate, and such deeds, books, and documents were taken possession of on the part of her Majesty; and the same are now under the control of Her Majesty's Attorney-General; and the plaintiff submits that the same ought to be produced and handed over to such person or persons as may be appointed to be such receiver or receivers as aforesaid, for the purpose of facilitating the receipt of the rents and profits of the said real and leasehold estate, and the receipt and getting in of the said intestate's other personal estate.

#### Prayer.

The plaintiff prays as follows:

1. That some proper person may be appointed to receive the rents and profits of the real estate of the said M. E., and to let and manage the same: until such time as the plaintiff's title shall be determined in the said action at law.
2. That some proper person may also be appointed to receive the rents and profits of the leasehold estates of the said M. E., and to let and manage the same, and to receive, collect and get in her personal estate: pending the aforesaid litigation in Her Majesty's Court of Probate.
3. That all deeds, books, and documents now under the control of Her Majesty's Attorney-General, belonging or relating to the real and personal estate of the said M. E., may be delivered

over to the person or persons so to be appointed, or that the same may be deposited in this Court: for the purpose of enabling such person or persons to refer to and use the same, as may be necessary.

4. That for the purposes aforesaid all usual and necessary directions may be given, and inquiries directed.

5. *General relief: see ante, No. 135.*

The defendant (*do.*: concluding as in No. 135, *ante.*)

*Title—and address of bill: see ante, No. 135.*

Humbly complaining, *do.*, T. G. (*and five others*), all of S., in the county of D., and severally shipowners, the above named plaintiffs, as follows:

1. The plaintiffs are the owners of the British brig Edith Mary, of 248 tons burthen, as per register.

2. The said brig Edith Mary was, on Saturday the 13th of February, 1864, on a voyage, bound northward, in ballast; and during a severe gale of wind on that day, when off Filey in Yorkshire, the said brig came into collision with a vessel called the Thomas Barker; and by such collision the said Thomas Barker was sunk, and totally lost, and all the crew but two were drowned.

3. The said Thomas Barker was the property of the defendant T. B.; and the vessel was laden with coal, the property of the defendants the C. G. C., L. There was not any passenger on board the said Thomas Barker.

4. The defendants E. D., E. T. S., J. B., M. B., A. C. E., M. B., and M. P. are respectively the legal personal representatives of T. D., T. R. S., J. B., J. B., R. E., W. B., and R. P., who formed seven of the crew of the said Thomas Barker, and who were respectively drowned. J. D., another of the crew of the said Thomas Barker, was drowned, but he has not any legal personal representative. The defendants W. C. W. and J. M. D., the only other members of the crew, survived the said collision, and are now living. All the crew of the said Thomas Barker had on board the said vessel, at the time of the said collision, clothes, sea chests, bedding, and other chattels.

5. No passengers or cargo were on board the Edith Mary at the time of the collision aforesaid.

6. The defendant T. B. has threatened to take proceedings against the plaintiffs, as owners of the Edith Mary, to recover from them a very large sum for the loss incurred by him through the said collision. The defendants E. D.,

83A.

Bill for limitation of liability of shipowner, under the Merchant Shipping Acts.



E. T. S., J. B., M. B., A. C. E., M. B., and M. P. have severally commenced actions in Her Majesty's Court of Q. B., at Westminster, against the plaintiffs, to recover from them very large sums of money by reason of the loss of the lives of the seamen aforesaid, and the loss of their clothes and property; and such proceedings are still pending. The defendants W. C. W. and J. M. D. also threaten proceedings against the plaintiffs for the loss of their clothes and baggage; and the defendants, the C. G. C., L., claim a large sum of money from the plaintiffs for the loss of the cargo of the *Thomas Barker*, by the collision aforesaid.

7. The total amount of the several claims exceed by a large amount the sum of £1984: which is the value of the *Edith Mary*, reckoned at £8 per registered ton.

8. The plaintiffs admit that they are answerable in damages, in respect of the matters aforesaid, in manner mentioned in Part 9 of the Merchant Shipping Act Amendment Act, 1862, to the extent of £8 per registered ton of the *Edith Mary*: which the plaintiffs submit is, according to the said Act, the limit of their liability where there has been no loss of life of, or personal injury to, any passenger; and they are desirous of having such limit of liability declared, and the amount thereof distributed, under the direction of this honourable Court.

Prayer.

The plaintiffs pray as follows:

1. That the amount of the plaintiff's liability in respect of the matters aforesaid, according to the said Act, may be declared and distributed between the defendants, and all other persons who shall establish claims against the plaintiffs in respect of the matters aforesaid, by and under the direction of this honourable Court.

2. That in the meantime the defendants, and each of them, may be restrained, by the order and injunction of this honourable Court, from prosecuting the said actions so already commenced as aforesaid, and each of them, and from commencing and prosecuting any other action or actions against the plaintiffs, or any of them, touching the matters aforesaid, or any of them.

3. *General relief: see ante, No. 135.*

The defendants (&c.: *Concluding as in ante, No. 135.*)

## COMMON FORMS OF PRAYER.

That the defendants A. B. and C. D. (*executors of deceased executor*) may admit assets of the said W. W. (*deceased executor*) sufficient to answer what (if anything) may be found due from his estate, upon taking any such accounts as aforesaid; or that the necessary accounts may be taken of the estate of the said W. W.

839.

Admission of assets, or account.

That in making the inquiries, and taking the accounts, required for the purpose of this suit, any of the proceedings had in the said suit of A. v. B. which can properly or usefully be adopted, may be adopted accordingly; and that the costs of the said suit of A. v. B. remaining unpaid (if any) may be provided for in this suit.

840.

Adoption of proceedings had in another suit.

That the boundaries of the said real estate of the said J. T. may be defined and set out, under the decree of this honourable Court; and that all necessary directions may be given for that purpose.

841.

Boundaries to be ascertained.

That the rights and interests of all parties in the said real and personal estate may be ascertained and declared.

842.

Declaration of rights.

That the defendant A. B., upon being served with a copy of the bill, may be bound by all the proceedings in the cause.

843.

Formal party.

1. That the said several defendants may be decreed to interplead, touching their said claims to the said sum of £—; and that the plaintiff may be at liberty to pay the same into Court, for the benefit of such of the defendants as shall appear to be entitled thereto.

844.

Interpleader.

2. That the defendant C. D. may be restrained, by the order and injunction of this honorable Court, from prosecuting the said action so commenced by him as aforesaid; and that the defendants may in like manner be restrained from commencing or prosecuting any other action or proceeding against the plaintiff, for the recovery of the said sum of £—, or any part thereof, or otherwise concerning the matters aforesaid.

845.

Partition.

1. That a partition may be made of the said tenements and hereditaments called R., under the direction of this

Honorable Court, according to the respective interests of the parties entitled thereto.

2. That all proper and necessary conveyances and assurances may be executed for carrying such partition into effect, and all proper directions given for that purpose, and as to the custody of the title deeds and writings relating to the said tenements and hereditaments.

846.  
Principal  
against agent;  
account.

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1. That an account may be taken of all sums of money received by, or come to the hands of, the defendant, as such agent of the plaintiff as aforesaid, for or on account, or for the use of, the plaintiff, and of the application thereof; and of all dealings and transactions of the defendant, as the plaintiff's agent; and that the defendant may be decreed to pay to the plaintiff what, on taking such accounts, shall be found due from the defendant to the plaintiff; and to deliver up to the plaintiff all documents in the defendant's possession or power, belonging to the plaintiff.

2. That the defendant may pay the costs of this suit.

847.  
Formal parts.

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DEMURRERS.

See *ante*, No. 222.

848.  
Demurrer for  
want of  
equity.

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That the plaintiff has not by his said bill made such a case as entitles him in a Court of Equity to any discovery from this defendant [*Or*, these defendants, or either (any) of them], or to any relief against him [*Or*, them, or either (any) of them], as to the matters contained in the said bill, or any of such matters.

849.  
Demurrer for  
want of  
equity.

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That the said bill doth not contain any matter of equity whereon this Court can ground any decree, or give to the plaintiff any relief against this defendant [*Or*, these defendants, or either (any) of them].

850.  
Demurrer for  
want of parties.

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That it appears by the said bill that it is necessary that the estate of the plaintiff's late wife, M. N. in the said bill named, should be represented in this suit; but no legal

personal representative of the said M. N. is named a party thereto.

That it appears by the said bill that the same is ex-<sup>851.</sup>hibited against this defendant [*Or*, these defendants] and Demurrer for multifariousness. A. B., C. D., &c., for several and distinct matters and causes, in many whereof, as appears by the said bill, this defendant is not [*Or*, these defendants are not, nor is either of them,] in any manner interested or concerned; and that the said bill is multifarious.

That it appears by the said bill that neither the promise<sup>852.</sup> or contract which is alleged by the said bill, and of which Demurrer, on the ground of the statute of frauds. the plaintiff by the said bill seeks to have the benefit, nor any memorandum or note thereof, was ever reduced into writing or signed by this defendant [*Or*, these defendants or either (any) of them], or any person lawfully authorized thereunto, within the meaning of the statute passed in the 29th year of King Charles the Second, for the prevention of frauds and prejuries.

PLEAS (\*).

See *ante*, No. 231.

<sup>853.</sup>  
Formal parts.

We, T. L. C. and J. F., by protestation to all the relief, and<sup>854.</sup> to all the discovery, sought for and prayed against us by the Plea in bar, that defendant's are not legal personal representatives. said bill, do plead in bar to the said bill; and for a plea say: that immediately after the death of Sir C. R. T., the testator in the said bill named, the solicitor of the plaintiff A. C. T. entered a *caveat* in the Court of Probate to prevent any person from proving the will and codicil of the said testator in the said bill mentioned; and that he thereby prevented probate being obtained of such will and codicil, or the constitution of a legal personal representative of the said testator; and that in consequence of the aforesaid act of the plaintiff's solicitor, and in fact, we have not, nor has either of us, proved the said will or codicil, or been constituted in any manner the legal personal representatives, or the legal personal representative, of the said tes-

\* Pleas are abolished in our Court; but these forms, taken from Daniell, will be useful as furnishing material for answers.

tator; and we are not, nor is either of us, nor have nor has we or either of us, ever been executors or executor, or legal personal representatives, or legal personal representative, of the said testator. All which matters and things we aver to be true; and plead the same in bar to the whole of the discovery and relief sought and prayed by the plaintiff's said bill of complaint; and humbly demand the judgment of this Honorable Court in respect thereof.

855.  
Plea of a release.

I, C. D., by protestation do plead thereto; and for a plea say: that by a certain deed poll of release dated the — day of —, under the hands and seals of the plaintiffs, and duly executed and delivered by them: reciting, &c. (*States release from plaintiffs to defendant of all claims in the lands*). And I further say, that the messuages, lands, tenements, and hereditaments, touching which the plaintiffs seek relief by their said bill, are the same messuages, lands, tenements, and hereditaments as are mentioned and intended in and by the said deed poll to be thereby released, together with all suits and actions concerning the same. All which matters and things I aver to be true; and do plead the same in bar to the said bill. And I therefore humbly pray the judgment of this Honourable Court whether I shall be compelled to make any further or other answer to the plaintiffs' said bill; and pray to be hence dismissed with my reasonable costs in this behalf sustained.

856.  
Plea of another suit pending in the Court of Chancery of the County Palatine of Lancaster.

We J. T. and E. G., by protestation for plea to the whole of the said bill say, that on the — day of —, the plaintiff B. L., by J. L. her next friend, filed her claim in the Court of Chancery of the County Palatine of Lancaster against these defendants, &c.; and thereby the plaintiff B. L. claimed as follows; that is to say: (*Stating what.*) And we further aver, that all the defendants to the said claim duly appeared thereto; and that by an order dated the 7th August, 1861, in the said former suit, on the application of the defendants thereto, other than the defendant J. L., it was ordered that (*Stating the substance of the order.*) And we further aver, that no proceeding has been had in the said former suit; but that the same is still pending; and that the said former suit is in respect of the same matters, and for the same purposes, as the present suit; and that the said County

of Lancaster has been from time whereof the memory of man is not to the contrary, and now is, a County Palatine: having co-equal jurisdiction with this Court touching or concerning property within the jurisdiction of the said Court; and that all the property in question in the present suit, and all the parties to the present suit, are within the jurisdiction of the said Court; and that the plaintiff B. L. may obtain the same relief in the said former suit as in the present suit, touching the matters in the said bill mentioned. Therefore, we plead the said former suit in the Court of Chancery of the County Palatine of Lancaster, and the several proceedings therein, in bar to the plaintiff's said bill in this Court; and humbly demand the judgment of this Court whether we shall be compelled

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 ANSWERS

 1. *Formal parts and Precedent.*

See *ante*, No. 231.

857.  
Formal parts.

In answer to the said bill I, T. E. say as follows:—

858.  
Precedent of  
an answer.

1. I have for several years been well acquainted with the defendant E. V.: who was and is a solicitor practising at R., in the bill mentioned; and who has for some time been, and still is secretary to the R. Union Gas Company, and owner of the leasehold messuages and premises in the said bill respectively mentioned or referred to; and on or before the 30th day of June, 1854, I was informed that legal proceedings against the defendant E. V. were contemplated by or on behalf of the family or representatives of Mr. G. C., in the bill named, for the purpose of compelling payment by the defendant E. V. of a sum of money due, or alleged to be due, from him to the estate of the said G. C., and charged by him upon certain shares in the said gas company, and upon the said leasehold messuages and premises, and on the policy of assurance, and rent charge, in the said bill respectively mentioned: and that with a view to such proceedings it was intended to give notices of such charge to the said gas company, and

to the several tenants of the said leasehold messuages, and premises, and to the P. Insurance Company, in the bill mentioned; and being of opinion that such notices, and the notoriety which would be thereby occasioned of his affairs being embarrassed, and other probable consequences from the same, would be highly prejudicial to the defendant E. V., and his family, I was very desirous of protecting him from such notices being given, and also to save him from proceedings or pressure to compel payment; and consequently I wrote and sent, on the said 30th day of June, to the defendant E. V., a letter informing him of my willingness to redeem the security given by him within a month, if, by so doing, I could protect him from such notices being given: which letter was in the words and figures following; that is to say: (*setting out letter*). The said letter did not satisfy the plaintiffs: being the parties therein referred to; and the offer which I thereby expressed myself willing to make, upon condition of such protection as aforesaid being granted, was declined by the said parties, and such protection was not granted.

2. On or about the 4th day of July, 1854, Messrs. S., solicitors, as I believe, for the plaintiffs, and to whom, as I believe, my letter above stated had been forwarded by the defendant E. V., wrote and sent to me a letter in the words and figures following: (*Setting out letter from solicitors, to E. T.: inquiring whether he will undertake to pay debt, and take transfer of securities, within a month.*)

3. The last hereinbefore stated letter having been sent to the E. hotel: which place I had previously left: was not received by me till several days afterwards.

4. On or about the 7th day of July aforesaid, the said Messrs. S. wrote and sent to me a letter in the words and figures following: (*Setting out letter stating that no answer had been received by Messrs. S. to their last letter, and requesting an answer.*)

5. The above stated letters of the 4th and 7th days of July were forwarded to me at my then and present residence, S. house, H.; and upon the receipt thereof, I wrote and sent to the said Messrs. S. a letter in the words, or to the purport and effect, following: (*Setting out letter agreeing to take a transfer of the equitable mortgage in a month.*)

6. In answer to the said last mentioned letter the said Messrs. S. wrote and sent to me a letter in the words and figures following: (*Setting out letter enclosing memorandum of agreement for transfer: to be signed by T. E.*)

7. The writing in the said last stated letter described

as a memorandum of agreement and enclosed therein was in the words and figures following: (*Setting out agreement to take a transfer within two months.*)

8. After receiving the last stated letter and writing, I consulted my solicitor Mr. J. V., of &c., respecting the same; and he was of opinion that it would be prudent on my part that a clause should be inserted in such writing, before the same should be signed by me, to bind the plaintiffs to give, during the said two months, any such notice or notices as I should require; and he wished to consult counsel respecting the same, and which accordingly I requested him to do; but in order to avoid delay, I signed the said writing without such additional clause, and placed the same in the hands of the said J. V.: to be delivered in case counsel should be of opinion that no such clause was necessary, and in case the proposed agreement was to be carried into effect without any variation; and the said J. V. thereupon, and on Saturday the 15th day of July, called upon the said Messrs. S., and saw Mr. F. of the said firm, and explained to him the nature of the additional clause desired; and Mr. F. thereupon said, that unless such an agreement, with or without the additional clause, was delivered at or before one o'clock on the following Monday, they should consider the treaty ended, and that the notices would be forthwith served. The said Mr. J. V. endeavoured without delay to consult counsel on the subject; and in consequence, as I believe, of the temporary absence from L. of the counsel whose opinion he wished to obtain, he was unable to get such opinion within the time stipulated by the said Mr. F.; and consequently no such agreement as required was delivered at or before one o'clock on the said Monday, the 17th day of July; and shortly after the said hour, the said Mr. J. V. was informed, by a friend of the plaintiffs, that the notices had been actually sent, and in fact a person was sent, by the said Messrs. S. to R., on behalf of the plaintiffs, to deliver, and he did deliver, on the evening of the same Monday, the 17th day of July aforesaid, such notices to the said R. Union Gas Company, and to the said tenants of the said leasehold messuages and premises; and a like notice was on the following day served on the said insurance office.

9. The said negotiation and treaty between the plaintiffs and myself was thereby broken off; and no agreement was made respecting the matters aforesaid, or the matters in the said bill mentioned, or any of them; and the document so signed by me was not, nor was any memorandum



of agreement by me, delivered to the plaintiffs, or their said solicitors, or other person on their behalf, at any time; and the said document is now in the possession of my solicitor on my behalf.

10. No letter or writing or communication, save as aforesaid, passed between me and the plaintiffs, or any person on their behalf; and for my greater certainty as to the said several letters and writings, I crave leave to refer to the same when produced; and I deny it to be true that I did, by letters or letter, or other writing signed by me, or otherwise, agree with the plaintiffs, or any or either of them, that if they would postpone giving notice of the agreement in the bill mentioned to the tenants of the property, and to the gas and insurance offices, therein respectively mentioned, or any or either of them, I would take a transfer of the security in the said bill mentioned, or of any other security, or that I at any time, or in any manner, entered into any such agreement as in the said bill mentioned. And I deny it to be true that the plaintiffs relied on any such agreement as in the said bill stated; or that they forbore to give such notice as in the said bill stated; and on the contrary I say, that the plaintiffs did, on the said 17th day of July, 1854, give such notices, and on the 20th of the same month of July they filed their bill in this suit, and that on the 24th day of the same month they applied for and obtained an order of this honourable Court for the appointment of a receiver to collect, get in, and receive the rents and profits of the leasehold premises, and the dividends of the shares and rent charges, respectively mentioned in the plaintiffs' bill; and the tenants of the said leasehold estates were thereby ordered to attorn, and pay their rents in arrear, and growing rents, to such receiver; who was to be at liberty to manage, set, and let the said estates with the approbation of the Judge to whose Court the cause is attached, as there should be occasion. And I say that the said letters and writings were and are no more than parts of a negotiation or treaty, into which I entered, as the plaintiffs knew, only with the desire, and for the purposes hereinbefore in that behalf mentioned, and not otherwise; which desire and purposes were entirely frustrated by the said plaintiffs breaking off and abandoning the said treaty in manner aforesaid, and by their serving such notices, and by instituting this suit, and taking the said proceedings therein. And I deny it to be true that I acted in the matter in the said bill mentioned, or in any other matter, in concert with the defendant E. V., for the purpose of delaying the plaintiffs

proceedings against him, and enabling him to dispose of portions of his property; and I deny it to be true that the defendant E. V. accordingly realised portions of his property, and placed the same out of the reach of his creditors.

11. I submit that the plaintiffs have not, on their bill, shown any case in equity, or case entitling them to proceed against me in this honourable Court; and I pray all such benefit as if I had demurred to the said bill.

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2. *Common Forms of Statements and Allegations.*

The dealings and transactions in respect of the said trade are entered in a large book, or ledger, kept on the premises at —; and the items in respect thereof are contained in 164 pages, with double columns, of the said book; and to set out such items in detail would occasion very great expense; but we are willing, if the Court should think proper so to direct, that the plaintiff or his solicitor should inspect the said book, and take extracts therefrom, at all reasonable times of the day.

859.

Accounts :  
reference to  
book contain-  
ing them.

The book debts of the said testator appear by the said ledger; and we have not, nor have either of us, had or made any other account thereof; and we are wholly unable to set forth any other account thereof, according to our respective knowledge, remembrance, information or belief.

860.

The like.

I have in the first schedule hereto, and which I pray may be taken as part of this my answer, set forth, to the best of my knowledge, information, remembrance and belief, a full true and particular list and account of all the personal estate and effects of or to which the said testator was possessed or entitled at the time of his death. And I say, that I have possessed myself of all such personal estate and effects. And as to such articles of personal effects as were as aforesaid specifically bequeathed by the said will, I say, that I have delivered the same to the several legatees to whom the same respectively were bequeathed. And I say, that my dealings with the rest of the said personal estate and effects appear by the second

861.

Accounts ;  
reference to  
schedules  
thereof to  
Answer.

and third schedules to this my answer. And in the second schedule hereto, and which I pray may be taken as part of this my answer, I have, to the best of my knowledge, information, remembrance and belief, set forth a full, true and particular account of all monies received or paid by me on account or in respect of the personal estate of the said testator, and by an inspection of which it will be seen what from time to time were the balances in my hands. And in the third schedule hereto, and which I pray may be taken as part of this my answer, I have, to the best of my knowledge, information, remembrance and belief, set forth, a full, true and particular account of the government and other stocks forming part of the said testator's estate, and of my dealings with the same. And save as aforesaid, I am unable, as to my belief or otherwise, to set forth any account of the personal estate of the said testator, at the time of his decease, or of the particulars whereof the same consisted, or of such parts thereof as have come to my hands, or the hands of any other person by my order, or for my use, or of my application thereof respectively, or of such parts of the said personal estate as are outstanding, or of the balances which have from time to time been in my hands or power in respect of the said personal estate.

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**862.**  
Particulars  
of property :  
reference to  
schedule  
thereof to  
answer.

We have in the schedule hereto set forth, according to the best of our knowledge, information and belief, a short but complete statement of the several particulars of the said testator's freehold and personal estate, and what parts or portions thereof have been sold, called in, or converted into money, and the several particulars of which the said testator's estate now consists, and upon what securities, and in whose names or name, and in what manner the same and every part thereof is invested.

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**863.**  
Accounts  
refused, as  
being useless  
before decree.

And we say and submit, that it would only occasion great and useless expense were we in this our answer to set forth any further or fuller account of the rents and profits aforesaid ; and that the same ought to be taken, if at all, by and under the directions and decree of this honourable Court.

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We admit that, &c.

884.  
Admission.

We have no personal knowledge of the fact, but, for the purposes of this suit, we admit that, &c.

885.  
Admission  
for purposes  
of the suit.

I claim to be interested in the matters of this suit by virtue of, &c.

886.  
Claims made  
by defendant.

The short particulars of the mortgage now vested in us, and of our title thereto, are as follows, &c.

We claim to be equitable mortgagees of the hereditaments mentioned in the said bill, together with other hereditaments, under a memorandum in the words and figures following; that is to say: &c.

We claim a lien on the shares of, &c., for so much of the said debts as arises from the unpaid purchase money of the same shares respectively, and the interest thereof.

We admit that, &c.—Or, We believe that, &c.—but for greater certainty, we crave leave to refer to the said, &c., when produced.

887.  
Craving leave,  
for greater  
certainty.

I know little or nothing respecting the deeds, dealings and transactions stated in the said amended bill; but I have seen a copy of the answer proposed to be forthwith put in to the amended bill by the defendants J. L. and G. W. F.; and I have no doubt that the statements contained in such answer are correct. However, for my greater certainty, as to the contents of deeds and other written documents, I crave leave to refer to such deeds or documents. Under the circumstances hereinbefore stated, and to avoid expense and prolixity, I abstain from answering, categorically, the interrogatories filed for the examination of the last named defendants and myself in answer to the amended bill; but if the plaintiffs so desire, I am ready and willing to put in a full answer to the said amended bill.

888.  
Craving leave  
to refer to co-  
defendant's  
answer.

I have in my possession certain papers and old rate books, which I am willing to hand over to the plaintiffs if they desire it. No application for any of the said papers or books was ever made to me prior to the filing of the bill in this cause. I have, under these circumstances, set

889.  
Offer to de-  
liver docu-  
ments, instead  
of scheduling.

out no list or schedule of such papers and books; and I submit that to do so would have been a useless expense.

870.

Reference to  
discovery of  
documents  
already made  
by affidavit.

I have, under an order made in this cause, and dated the — day of —, 18—, made an affidavit, to which I crave leave to refer, and which is, I submit, a sufficient answer to the 34th interrogatory to the said bill: being the interrogatory as to documents.

871.

Inability to  
discover con-  
tents of docu-  
ments.

The said settlement, and other deeds and documents hereinbefore mentioned, have been for some time and are now in the custody, possession or power of the plaintiff W. S.; but he refuses to produce the same, or to give me any information with respect to their contents; and I am, therefore, unable to set forth the same, or any of them, with greater certainty or particularity than hereinbefore appears.

872.

Objection to  
discovery, on  
ground of  
privilege.

We have also in our possession or power the several other documents mentioned and described in the second part of the said schedule; but we say that the same relate exclusively to our title to the said freehold hereditaments, and do not in any way show, or tend to show, any right or title in the plaintiffs, or either of them, therein or thereto, or in or to any part thereof. And we submit that the same are privileged documents; and we object to produce the same, or any of them. We deny that thereby, or by any of them, if produced, the truth of the matters in the said bill mentioned, or any of them, would appear.

873.

Objection by  
mortgagee to  
produce docu-  
ments.

I say that I have in my possession or power divers deeds, documents, papers and writings, relating to the hereditaments and premises in the said bill mentioned, and to the matters in the said bill mentioned, and that thereby, if produced, the truth of the matters in the said bill mentioned as the same are herein, and not as the same are in the said bill set forth, will appear. And I have in the schedule hereto set forth a full and true list and sufficient description of all the said several particulars; but I say that I am a mortgagee; and that a large sum is still due and owing to me, on my mortgage securities; and that the said several deeds, documents, and papers and writings form and support my title, and are intended to be used by me in evidence thereof accordingly; and do not

contain anything impeaching my case, or tending to support the plaintiffs' title, otherwise than as such title is herein admitted. And I insist that, until I have been paid the principal money and interest due on my said mortgage, in the said bill and hereinbefore mentioned, and the costs of this suit, the plaintiffs are not entitled to inspect the said deeds, documents, papers and writings, or any of them, or to have the same or any of them produced for any purpose. And save as aforesaid, I deny it to be true that I have now, or had lately (*Traverse the interrogatories*).

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I have been informed and believe, that, &c.  
I believe that, &c.

874.  
Information  
and belief.

We have no reason to doubt, and therefore we believe that, &c.

We believe that the statements contained in the paragraphs numbered respectively from 1 to 8, both inclusive, of the plaintiffs' bill of complaint are true, except in the particulars or respect hereinafter mentioned; that is to say: &c.

I, this defendant W. R., say, and we, these other defendants, believe it to be true, that, &c.

We have no personal knowledge of the matters inquired after by the — interrogatory filed in this cause; but we have no reason to doubt, and therefore we believe, that, &c.

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I [*Or, We*] do not know, and cannot set forth as to my [*Or, as to either of our*] belief or otherwise whether or not it is alleged or is the fact that, &c.

875.

Ignorance.

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Save as herein appears, it is not the fact, &c.

876.  
Qualified  
denial.

Save as herein appears [*Or, Save as by the said schedule appears*], I do not know, &c.

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I have in the — schedule hereto, and which I pray may be taken as part of this my answer, set forth, to the best of my knowledge, information, and belief, a description of, &c.

877.  
Reference to a  
schedule.

**878.**  
Release :  
craving same  
benefit, as if  
pleaded.

We submit, and humbly insist, that the said release so executed as aforesaid, and the payment of the said sum of £—, and the receipt given for the same, is a full discharge ; and we claim the same benefit as if we had pleaded the same release. Nevertheless, we are willing and hereby submit to account as this honourable Court may think fit.

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**879.**  
Statute of  
limitations of  
21 James I. c.  
16, claimed, as  
if pleaded.

I insist on the statute made in the 21st year of His late Majesty James the 1st, for the limitation of actions, in as full and ample a manner as if I had pleaded the same in bar of the plaintiffs' said bill, or to the relief sought thereby.

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**880.**  
The like, of 3  
& 4 Will. IV.  
c. 27.

We severally claim the benefit of the provisions made in and by the statute passed in the session holden in the 3rd and 4th years of the reign of King William the 4th, "for the limitation of action and suits relating to real property, and for simplifying the remedies for trying the rights thereto," and of all other statutes of limitation, in bar to the relief sought by the plaintiff in this suit : in the like manner as if we had pleaded the same.

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**881.**  
Settled ac-  
counts, claim  
of.

The account so stated and settled was in fact stated and settled by the said A. B. and myself, as it purports to be, on the day of the date thereof ; and I claim the benefit thereof as a settled account.

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**882.**  
Submission of  
fact.

We submit to the judgment of this honourable Court whether it is or not the fact, &c.

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**883.**  
Submission by  
trustee to act.

We submit in all things to act as this honourable Court shall direct ; and we claim to have our costs, charges, and expenses, properly incurred paid out of the estate of the said testator.

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**884.**  
Traverse.

The said J. S died on the — day of —, and not on the — day of —, as in the 2nd paragraph of the said bill erroneously stated ; but save as aforesaid, we do

not know, and are unable, as to our belief or otherwise, to set forth whether or not the statements, or some or one or which of the statements, contained in the paragraphs numbered respectively from 1 to 8, both inclusive, of the plaintiff's bill of complaint are or is true, or which of them are or is or in what respect untrue, or how otherwise.

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I have never in any manner intermeddled with the said trust estate, nor received any of the rents and profits thereof; and I am very desirous to be discharged from the trusts in the bill mentioned, and I am ready and willing to convey and release the trust premises to such persons, or to do such other acts, as this honourable Court shall direct for that purpose, upon being indemnified in so doing, and having my costs and expenses.

885.

Trustee; desire to be discharged.

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We submit to the judgment of this honourable Court, and humbly insist, that this suit is altogether unnecessary and vexatious; and that even if the plaintiff had been entitled to any such relief as is prayed by the said bill, the same might have been obtained by proceedings at law; but we say that a large sum of money has been for a long time, and now is, justly due and owing to us from the plaintiff; and that during the whole of the transactions in the said bill mentioned we were in advance with creditors of the plaintiff; and that the plaintiff has repeatedly, and partly in the letters hereinbefore set forth, acknowledged the accuracy of the accounts rendered by us to him, and has treated the same as being, as in fact they were settled accounts; and we claim the same benefit from this our answer as if we had pleaded the several matters herein stated or any of them, or as if we had demurred to the said bill.

886.

Vexatious suit: settled accounts; claim of benefit of defence as if raised by plea or demurrer.

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I am advised, and humbly submit, that the plaintiff has not any interest in the estate of the said testator, or in the matters in question in this suit, nor any such estate or interest in the said testator's estate, or the matters aforesaid, as to entitle the plaintiff to sustain this suit; and I crave the same benefit from this defence as if I had demurred to the said bill.

887.

Want of interest in plaintiff; craving same benefit as if defence by demurrer.



**888.** We submit that the plaintiff has not, by his said amended bill, entitled himself to any equitable relief as against us; and we accordingly claim the benefit of the same objections to the said amended bill as are claimed by our said answer to the said original bill.

**888a.**  
Answer to the Bill (Post No. 894.) filed to prevent the use of a Trade mark.

In Chancery.

E. D. and S. D. D. .... Plaintiff.  
and  
J. K. .... Defendant

*The Answer of J. K., the above named Defendant to the Bill of complaint of E. D. and S. D. D. the above named Plaintiffs.*

In answer to the said Bill I, J. K., say as follows.

1. I have been informed and believe that P. D. in the Bill mentioned was not the original and first Inventor of the word "Pain Killer" nor was he the first person who used the name of "Pain Killer", as applied to a medicine or article of commerce as alleged in the first and second paragraphs of the said Bill.

2. I have been informed and believe that none of the medicine manufactured by the said P. D. and distinguished or labelled, with the said Trade Mark of "Pain Killer" was introduced into or known in Canada so early as the year one thousand eight hundred and forty-one, nor was it or that manufactured by P. D. and Son, or by the Plaintiffs, known to the trade and the general public in Canada West and elsewhere by the name of "Painkiller"; nor whenever "Painkiller" was asked for in shops and elsewhere was the said medicine so alleged to be invented by the said P. D. intended or supplied by that name.—

3. I have been informed and believe that the said Trade Mark of "Painkiller" has not been registered duly and properly or in strict accordance or compliance with the statute of Canada, called, "An Act to amend the Act respecting Trade-Marks and to provide for the Registration of Designs," and the certificate of such Registration has not been duly obtained or procured and is void and of no value or effect.

4. I further say that the words "Painkiller" have never been used alone to designate the medicine manufactured by the Plaintiffs or by the said P. D. or P. D. and Son; but the said medicine is and always has been designated by the words "P. D.'s Vegetable Painkiller," nor is the

same generally known by the name of "Painkiller" alone, and whenever "Painkiller" is asked for in shops, or elsewhere, the medicine manufactured by the Plaintiffs is not intended or supplied without further specific directions.

5. I have been informed and believe that for many years medicine professing to be remedies for some or all of the diseases in which the Plaintiffs direct their medicine to be applied, and put up in bottles of a somewhat similar size and general appearance to the Plaintiffs have been manufactured and sold in Upper Canada under the name of "Painkiller" with the addition of the maker's name and that the manufacture and sale of some of these medicines was of a date anterior to the alleged invention and appropriation of the word "Painkiller" by the said P. D., and among the medicines referred to in this Paragraph I do not include that alleged in the said Bill to have been manufactured and sold by me.

And I pray to be hence dismissed with my reasonable costs.

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BILLS.

In Chancery.

Between—W. E. S. and A. McL.....Plaintiffs  
and  
R. G., M. A. E. G. and R. L., Defendants.

CITY OF HAMILTON.—To the Honourable the Judges of the Court of Chancery.

The Bill of Complaint of W. E. S. and A. McL., of the City of Hamilton, Merchants, Sheweth:

1. The Plaintiffs above named recovered a Judgment in the County Court of the County of Wentworth, on the 12th day of September, A. D. 1862, against R. G., a Defendant hereto for \$347.99 damages and \$42.45 costs and on the same day caused a writ of *fieri facias de bona* to be issued thereon, and placed in the hands of the Sheriff of Oxford, being the proper Sheriff in that behalf, indorsed to levy the above sums and two dollars and fifty cents for that writ and Sheriffs' fees, poundages and incidental expenses out of the goods of the said R. G.

2. The said writ against the goods and chattels of the said R. G. was afterwards duly returned, *nulla bona* by the said Sheriff.

889.

Bill by judgment creditor to set aside deed from his debtor to a third party as fraudulent and void.

3. On the 29th day of May, A. D. 1866, the Plaintiffs caused a writ of *fieri facias de terris* to be issued and placed in the hands of the Sheriff of the united Counties of Huron and Bruce, indorsed to levy the above sums for damages and costs and \$5.00 for writs and Sheriffs' fees, poundages and incidental expenses out of the land and tenelements of the said R. G., and the said writ now remains in the hands of the said Sheriff of the united Counties of Huron and Bruce.

4. The said Judgment remains wholly due and unsatisfied.

5. On or about the 5th day of September, A. D. 1864 the said R. G. with the intent and design of defeating, delaying, and hindering the Plaintiffs and his other creditors in the recovery of their debts, purchased the following property, viz: Lot No. in Sparling's Survey, Seaforth, Township of McKillop, with his own money from one G. F. and took the conveyance thereof with the intent aforesaid, in the name of M. A. E. G. his wife who became a party thereto for the purpose of assisting her said husband in his said intent and design, and without any consideration moving from her for the same.

6. By an Indenture of Bargain and Sale by way of Mortgage purporting to have been made on the 26th day of January, 1866, between the said R. G. and the said M. A. E. G. of the first part, and R. L. another Defendant hereto of the second part, the said R. G. and M. A. E. G. purported to convey the said Lot No. to the said R. L. in fee subject to a proviso to become void on non-payment of the sum of \$250, as therein mentioned.

7. The said Indenture of Mortgage was registered on the 30th day of the said month of January.

8. The Plaintiffs charge that the said Indenture of Mortgage was made and executed by the said R. G. and M. A. E. G. with the intention and design of defeating, delaying or hindering the Plaintiffs and the other creditors of the said R. G. in the recovery of their said debt: That the said R. L. advanced no money nor was there any consideration for the said Mortgage: that the said R. L. became a party thereto, with the design and intention of aiding and assisting the said R. G. to defeat, delay or hinder the Plaintiffs, and his other creditors in recovering their debts.

The Plaintiffs therefore pray:

1st. That they may be paid the amount of the said Judgment together with Interest thereon and the costs of this suit: and in default thereof

that the said land and premises may be sold for the satisfaction thereof and the proceeds of such sale applied accordingly.

2. That the said Conveyance to the said M. A. E. G. and the said Indenture of Mortgage may be declared fraudulent and void as against the Plaintiffs, and may be set aside or postponed to them.

3. And for that purpose that all proper directions may be given and accounts taken.

4. And that the Plaintiffs may have such further and other relief as the circumstances of the case may require.

And the plaintiffs will ever pray, &c.

In Chancery.

H. McM... .....Plaintiff,  
and  
W. G.....Defendant.

880.  
Bill by judgment creditor to obtain equitable execution against his debtor.\*

CITY OF HAMILTON, } To the Honourable the Judges of  
TO WIT, } the Court of Chancery.

The Bill of Complaint of H. McM. of the City of Hamilton, Carpenter, Showeth as follows :

1. That the Plaintiff, on the 10th day of April, A. D., 1872, in the Court of Queen's Bench for the Province of Ontario, at Toronto, by the Judgment of the said Court, recovered against the Defendant \$362 for damages, together with \$84.90 for his costs of suit, which said Judgment is still in force and unsatisfied.

2. On the said 10th day of April, your orator sued out of the said Court of Queen's Bench, on the said Judgment a writ of *fiery facias* against the goods and chattels of the said Defendant, and the same was duly indorsed with a direction to the Sheriff of the County of Wentworth to levy the said sum of \$362 damages, and the said sum of \$84.90, taxed costs, and also \$12 for that writ, and one against lands, with interest from the said 10th day of April, together with his own fees, poundage and incidental expenses : and the said writ so indorsed was duly de-

\* It is doubtful whether this Bill will lie. See *Blake vs. Jarvis*, 17 Grant, 201. S. C., 16 Grant, 235. S. C., *ibid*, 265. *B. B. N. America vs. Mathews*, 8 Grant, 492. *Horsley vs. Cox*, 4 L. R. Ch., App. 92.

livered to the said Sheriff on the said 10th day of April, to be executed.

3. On the said 10th day of April, your orator sued out of the said Court of Queen's Bench, on the said Judgment, a writ of *fiery facias* against the lands and tenements of the said Defendant, and the same was duly indorsed with a direction to the Sheriff of the said County of Wentworth, to levy the said sum of \$362 damages, and the said sum of \$84 90, taxed costs, and also \$12 for that writ, and one against goods and chattels, with interest from the said 10th day of April, together with his own fees, poundage, and incidental expenses ; and the said writ, so indorsed, was delivered, to the said Sheriff, on the said 10th day of April, to be executed.

4. That both of the said writs are now in the hands of the said Sheriff for execution and the said Judgment has not been satisfied either in whole or in part.

5. That the said Sheriff was and is unable to execute either of the said writs, the defendant not having any goods or chattels, or any lands which can be seized or attached by him under either of the said writs, or by any process at law.

6. Since the death of his father, the late J. G., the Elder, who died on or before the 5th day of December A. D. 1859, the said Defendant has continually been and now is the owner of a certain equitable interest under the will of his said father, bearing date the 24th day of November, A. D., 1859, by which he devised and granted unto his Executors J. G. the younger, D. C. and H. C. all his real and personal estate, property and effects of whatever description or wheresoever situate, to hold to the said executors, in trust, among other things, that his executors should have and hold all his real and personal estate till his youngest child shall arrive at the age of twenty-one years ; or if his youngest child should not arrive at the age of twenty-one years, then, till the youngest surviving child shall arrive at that age, and to receive the rents, issues and profits thereof : and upon his youngest surviving child attaining that age to sell by public auction, or private sale all his real estate, and personal property, and from and out of the proceeds, he by his said will directed an equal division then to be made among his nine children, Peter, Sarah, James, William (the said William, being the present Defendant), Andrew, Elizabeth, Annie, George and Susan ; and in case any of his said children should die without lawful issue before the youngest surviving child should attain the age of twenty-one years ; then he willed

and directed, by the said will, that the share or portion which would have accrued to such child dying without lawful issue shall be equally divided among the surviving children, Peter, Sarah, James, William, Andrew, Elizabeth Annie, George, and Susan share and share alike.

7. The said defendant W. G. (being the William named in the said will.) is now living, married, and has lawful issue, also living.

8. The said real and personal estate thus devised, and directed to be sold and divided among the said children, is all situated and held in the said County of Wentworth, and is very valuable, being worth at least the sum of \$16,000. The said real estate is composed of (*copy description of land.*)

The youngest of the said children is the said Susan who is now about fourteen years of age.

9. The said Defendant from the date of his father's death has continually been, and now is, in and by the terms of the said will, (to which the plaintiff craves to be hereafter allowed to refer to more particularly), the possessor of, and entitled, to a valuable equitable interest in the said estate, which interest ought to have been, and ought to be applied in payment of the said Judgment of the said Plaintiff, and is far more than sufficient to satisfy the same, but the same cannot by means of the said common law writs, or by any other process or proceedings capable of being had or taken at law be levied upon by the said Sheriff, or otherwise made available for the satisfaction of the said Judgment or of any part thereof.

Your orator therefore prays that the execution of the said Judgment may be aided by this Honourable Court, and the said equitable interest may be seized, and sold in such manner as to this Court may seem meet; and the proceeds applied in satisfaction of the said Judgment, and of the subsequent costs attendant thereon.

That the Defendant be ordered to pay the costs of this suit.

And that your orator may have such further and other relief as may, to your Lordships, seem meet.

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891.  
Bill to declare  
defendants,  
assignees in  
insolvency,  
trustees for  
plaintiff, as to  
part of a judg-  
ment obtained  
by the insol-  
vent against a  
debtor of both.

In Chancery.

Between I. McM.....Plaintiff  
and  
F. M. W. and A. McK.  
and  
R. J. H.....Defendants.

To the Honourable the Judges of the Court of Chancery.

The Bill of Complaint of I. McM., of the City of Ham-  
ilton, in the County of Wentworth.

Showeth as follows :

1. One J. C. T., formerly of the City of Hamilton, Hotel keeper, was indebted to the plaintiff in the sum of One Thousand Dollars, for money lent and advanced by him to the said T., and as evidence thereof, your complainant took from said T. his two promissory notes for Five Hundred Dollars each, one of them dated the Thirtieth of January, in the year of our Lord One Thousand Eight Hundred and Sixty Two, and the other dated the Twelfth of November, in the year of our Lord One Thousand Eight Hundred and Sixty Two, both bearing interest at six per centum per annum from their respective dates, and both made by J. C. T.

2. J. C. T. was also largely indebted to one R. J. H., a defendant hereto upon promissory notes, and having made default as well in paying the amount due and the notes to the plaintiff, as in paying those to H. the said H. was about to give instructions to his attorneys to bring an action for the recovery of those due to him and proposed to the Plaintiff that the Plaintiff's notes should be included in the same action, to which the plaintiff assented and delivered them to H. without any consideration and for that purpose only.

3. Shortly afterwards, and on the Ninth of August in the year of our Lord One Thousand Eight Hundred and Sixty Four, H. instructed his attorneys to bring an action against T. for eleven promissory notes including the two belonging to the plaintiff: an action was accordingly brought in the Court of Queen's Bench, in the name of H. against T., and such proceedings were thereupon had that judgment was obtained thereon on the twenty-eighth day of August, in the year of our Lord One Thousand Eight Hundred and Sixty Four, for the sum of Thirteen Thousand Three Hundred and Sixty-nine Dollars and Twenty-six cents damages, and Eighteen Dollars and Forty-eight cents costs, and on the Thirty-first day of August, in the same year, a writ of *fiery facias de bonis* issued upon that judgment, was placed in the hands of

the Sheriff of the County of Wentworth, indorsed to levy these sums, fees for writ, and sheriffs fees of the goods and chattels of T.

4. Of the amount for which judgment was so obtained, and which was required to be levied, One Thousand Dollars of principal money and interest upon Five Hundred Dollars from Thirtieth of January, One Thousand Eight Hundred and Sixty-two, and upon Five Hundred Dollars from Twelfth of November, One Thousand Eight Hundred and Sixty-two, till the date of the judgment, amounting in all to One Thousand One Hundred and Thirty-one Dollars and Twenty-five cents, were the property of the Plaintiff.

5. On the Fourth of November, One Thousand Eight Hundred and Sixty-four, H. signed an instrument, to which the Plaintiff craves leave to refer, declaring that he was a trustee of the said judgment for the Plaintiff to the extent mentioned in the last preceding paragraph.

6. H. became insolvent, and on the Tenth of November, One Thousand Eight Hundred and Sixty-four, the defendants W. and McK. were duly appointed assignees of his estate under the Insolvent Act of One Thousand Eight Hundred and Sixty-four.

7. While H.'s writ against the goods of T. was in the Sheriff's hands there were other writs also in his hands against the goods of T, and against the goods of H., the priorities of which were in dispute, as also the property affected thereby, and it was agreed by T.'s creditors that the chattels seized under the writs against his goods should be sold by the Sheriff and the proceeds placed in the hands of a trustee, to be paid to such one or more of the creditors as should be eventually found and declared entitled thereto.

8. The sale accordingly was made by the Sheriff and a large sum realized thereby and deposited in the hands of a trustee. The respective rights of the Execution Creditors were the subject of litigation in this Court between the Defendants as assignees of H. and other parties, but to which the Plaintiff was no party, and it was ultimately and recently determined that the Defendants W. and McK. as such assignees were entitled to the proceeds of the sale, and the trustees in pursuance of a decree of this Court to that effect, delivered over the proceeds of the sale in his hands to the Defendants.

9. The Plaintiff submits that under the Insolvent Acts only the beneficial interest of the insolvent H. passed to the assignees, the Defendants W. and McK., and that of



the proceeds of the sale which have reached their hands in the manner detailed above, they are trustees for the Plaintiff to the extent specified in the fourth paragraph.

10. The Plaintiff has submitted to the Defendants W. and McK., affidavits and all necessary and reasonable proofs of the correctness of his claims establishing his title to the portion of the proceeds of the sale claimed by him, but they have refused to pay over the same to him or any part thereof.

The Plaintiff prays that it may be declared that the Defendants were and are trustees of the said judgment and the money realized by the said sale to the extent mentioned in the fourth paragraph of this Bill.

And that the Defendants W. and McK. may be ordered to pay the same to him with the interest accrued thereon or so much as has been realized thereon from the date of the judgment.

And that the Plaintiff may be declared entitled to his costs from the Defendant, W. and McK. or out of the insolvents estate.

And for that purpose that all proper directions may be given and accounts taken.

And that the Plaintiff may have such further and other relief as the circumstances of the case may require, and the Plaintiff will ever pray, &c.

883.  
Bill for infringement of patent, and for an injunction.

In Chancery.

Between S. N. .... Plaintiff  
and  
J. W. .... Defendant.

Town of Woodstock. } To the Honourable The Judges  
of the Court of Chancery.

The Bill of Complaint of S. N. of the City of Hamilton, Manufacturer,  
Sheweth as follows:

1. By Letters Patent under the Great Seal of the Province of Canada, bearing date the Tenth day of April, A. D., 1863, and in the 26th year of the reign of Her Majesty, Queen Victoria: Reciting amongst other recitals that M. N., then of the Town of Brantford, in the County of Brant, Builder, had then lately made application by petition to the Governor of said Province, in the manner provided by law, setting forth amongst other things that he claimed to be the original inventor or discoverer of "M. N.'s Economical Drum-heater" which said invention

or discovery might be shortly described, reference being first had to the specification and drawing annexed to and forming part of such Letters Patent in the words in such Letters Patent in that behalf used, Her Majesty, by and through Her Governor of Her said Province of Canada, did for herself her heirs and successors give and grant unto the said M. N., his heirs, lawful representatives and assigns the full and exclusive right and liberty of making, constructing and vending to others to be used, the said invention or discovery within said Province of Canada, in such manner as to said M. N., his heirs, lawful representatives and assigns or any of them should seem meet for and during and unto the full end and term of fourteen years from the date of such Patent, and to the end that the said M. N., his heirs, lawful representatives and assigns, and every of them might the more effectually have and enjoy the full benefit and sole use, exercise and enjoyment of the aforesaid invention and discovery in pursuance of the statute in such case made and provided Her said Majesty did by those presents for herself and her heirs and successors require and strictly command all and every person or persons, bodies politic and corporate, and all her subjects whomsoever of what state, quality, name or condition, so ever they might be within her said Province of Canada, that neither they nor any of them at any time during the continuance of the said term of fourteen years thereby granted either directly or indirectly, should make, use or put in practice the said invention or discovery or any part of the same so attained unto and invented by said M. N. as aforesaid, nor in any wise counterfeit, imitate, or resemble the same, nor make nor cause to be made any addition thereto or subtraction therefrom whereby to pretend himself, herself, or themselves the inventor or inventors, deviser or devisors thereof, without the license, consent or agreement of the said M. N., his heirs, lawful representatives or assigns, in writing under his or their hands first had and obtained in that behalf upon certain conditions in said Patent set forth, and amongst others that the said Letters Patent should be void if the said short description and specification and drawing did not contain the whole truth relative to said invention or discovery.

2. Said M. N. so applied for such Letters Patent and the same were so granted under and by virtue of the Thirty-fourth Chapter of the Consolidated Statutes of Canada, entitled an Act respecting Patents for invention, and the said M. N. at the time of his said discovery and

invention and when he so applied for and when he so obtained such Letters Patent was a subject of Her Majesty and a resident in the then Province of Canada.

3. The said specification was also in writing, and in duplicate and signed by said M. N., and attested by two witnesses, and such drawing was also in duplicate and such specification and drawing, together with such Letters Patent were duly recorded and enrolled in the office of the then Minister of Agriculture of such Province of Canada, whereby and by such statute such drawing shall be considered and is a part of the said specification and the said short description of such invention and discovery so contained in such Letters Patent as aforesaid shall be considered, and is a mere reference to the fuller description and more ample details contained in such specification so including such drawing.

4. Such specification so including such drawing cannot be conveniently fully set forth in this Bill, and therefore the Plaintiff refers your Lordships thereto and to said Letters Patent for the full description and details of the said invention and discovery for which such Letters Patent were so granted as aforesaid.

5. The said patent invention in so far as the purposes of this suit are concerned, consists and in the specification so including such drawing is described as consisting of a drum-heater inside a drum of cylindrical shape, closed at the sides and the ends thereof except as hereinafter mentioned, and an air pipe extending from the floor to the bottom of such drums, and passing upwards through the centre and top of such drum and drum heater, which air pipe is open at the top and bottom thereof and has openings in the sides thereof where it rests upon the floor, but otherwise is closed at the sides; and which drum-heater consists of a spiral flue extending from the bottom to the top of such drum and passing several times around inside such drum and outside such air pipe, into and through which spiral flue the fire heat of a stove passes by means of an opening at the bottom of such drum upwards, and escapes through an opening in the top of such drum into the stove pipe, heating in such its passage the air of the room in the house or public building where such drum-heater and air pipe may be placed, and also the air inside such air pipe thereby causing such air inside such air pipe to ascend and be discharged through the opening of the top of such air pipe and the cold air at the floor to be thereby drawn in at the bottom of such air pipe, passed up such air pipe

heated in its passage and so discharged through such opening at the top of such air pipe. And the said specification including the said drawing, besides describing in detail the various parts of the said machinery and its mechanism, construction, operation, concludes with a claim which in part is as follows, viz: The said M. N. thereby claimed as his invention such spiral flue in connection with such air pipe and also that such his invention is peculiarly adapted for heating rooms in houses and public buildings, and that by its use not only is a great saving of fuel effected but the air in rooms is rendered of a more uniform and equal temperature at top and bottom.

6. The said patent invention was at the time of the discovery thereof and at the time of the said application for the said Letters Patent therefor, and at the time of the said granting of such Letters Patent therefor, new, and useful, and unknown, and unused in said Province of Canada, and the conditions on which the said Letters Patent were granted have been complied with, the said Letters Patent are now in full force and unrevoked, and in no wise void or voidable.

7. Upon obtaining such Letters Patent the said M. N. and the Plaintiff entered into co-partnership in the manufacture and sale of such drums and drum-heaters according to the said patent invention, and continued in such trade and business during the lifetime of said M. N.

8. Said M. N. on the twenty-seventh day of December, in the year of our Lord One Thousand Eight Hundred and Fifty-six, made his Will of that date, and on the tenth day of December, in the year of our Lord One Thousand Eight Hundred and Sixty-four, made a Codicil thereto, to each of which documents the Plaintiff refers your Lordships, and the said M. N. thereby willed the Plaintiff should thenceforth carry on such business, give one-half of the profits thereof to E. N., said M. N.'s wife, and retain the residue for the Plaintiff's own use. And the said M. N. thereby willed and devised all other his estate and effects, real, personal and otherwise, which should belong or appertain to him at his decease to his said wife, and thereby made her sole Executrix of his said Will.

9. The said M. N. afterwards on the tenth day of December, in the year of our Lord One Thousand Eight Hundred and Sixty-four, died, leaving the plaintiff and his said wife, him surviving, and without revoking the said will or codicil thereto, and they are both still in full force.

10. The said E. N. thereupon accepted such executorship and devises to her and duly proved such will in the Surrogate Court of the County of Brant, which was the proper Surrogate Court in that behalf, and she was and is his sole legal personal representative.

11. Such executrix of said M. N., by indenture dated the twenty-second day of May, in the year of our Lord one thousand eight hundred and sixty-six, made between her of the first part and the plaintiff of the second part, for and in consideration of three hundred dollars therein mentioned, sold and assigned to the plaintiff all her interest then to come in such Letters Patent, and in the said business.

12. Such will and codicil were each witnessed by two credible subscribing witnesses, and published and declared by the said M. N. in the manner by the statutes and laws of said Province of Canada, required for the passing of real and personal estate therein.

13. The said indenture of assignment was duly recorded on the third day of July, in the year of our Lord one thousand eight hundred and sixty-six, in the Bureau of Agriculture and Statistics of said then Province of Canada.

14. The plaintiff has ever since the death of the said M. N., under and by virtue of the premises, carried on and is still carrying on the said business in his own name, and excepting, as hereinafter mentioned, each and every of such drums and drum heaters manufactured and sold in such business, have always been and still are of the outward form of that shewn and designated by the letter L.R. A. upon the said drawing, but some thereof vary therefrom in some immaterial particulars, scarcely capable of protection, and all there is were and are constructed according to the said patent invention, and by the plaintiff and M. N. in his life time, and by the plaintiff since his death, have been and are offered for sale, and sold, some thereof by the trade name of "M. N., Economical drum heater," others thereof by the trade name of "N's. patent heater," and the residue thereof by the trade name of "N's. patent drum heater," and each and every thereof had and has thereupon a raised bronze coloured label, on which was inscribed "M. N's. patent, patented April 10th, 1863."

15. These drums and drum heaters have, during all that time, been favourably known to the trade and to the public by such outward form thereof, and by each of those trade names, by such bronze-coloured label thereof, and have been and are, with continually increasing favour, known and inquired for and purchased by each of such

trade names, as well as by such bronze labels, to the great gain and profit of the plaintiff in his said trade and business.

16. The defendant was never licensed or empowered by the plaintiff, nor by the said M. N., his heirs, lawful representatives or assigns, to make or sell machines wholly or in part thereof in accordance with the said patent invention or any part thereof, or in any wise to make use or put in practice said patent invention, or any part thereof, or in any wise to counterfeit, imitate or resemble the same, or make or cause to be made any addition thereto, or subtraction therefrom, whereby to pretend himself the inventor or deviser thereof.

17. Yet the defendant, on the twenty-ninth day of February, in the year of our Lord one thousand eight hundred and sixty-eight, or thereabouts, contrary to the provisions of the said Letters Patent, and of the statutes in that behalf, and within the now Province of Ontario, counterfeited, imitated and resembled the said patent invention by simply changing the form and proportion of, and making additions to, and subtractions from said "M. N.'s economical drum heater," so patented as aforesaid, for the purpose of pretending himself the inventor of such counterfeit imitation and resemblance thereof, and the defendant then named his said pretended invention and discovery "J. W.'s economizing heater for wood and coal."

18. The said pretended invention so named and designated "J. W.'s economizing heater for wood and coal," was and is according to, although is, in fact, only imperfectly, and in an unnecessary complex manner carries out the principle of the said patent invention, so as aforesaid named and designated "M. N.'s economical drum heater," and, in fact, only varies therefrom by and through the substitution, in the said pretended invention, of old and well-known, and less simple and less effective mere mechanical equivalents for the said spiral flue and the portion within the drum of the said air-pipe of the said patent invention, without any novelty or invention in such substitution, and without any useful purpose being thereby attained by means whereof all drum heaters made according to such pretended invention became much sooner filled and encumbered with soot, and are much more difficult to cleanse the soot from, and give out far less heat, and in a far less degree equalize the temperature at the top and bottom of the rooms in which they are used, than those constructed according to the said patent invention.

19. Nevertheless, the defendant applied to the Governor of the Province of Ontario for Letters Patent in that behalf, and upon such his application pretended and misrepresented to the Governor of such Province that his said pretended invention was a new and useful invention and discovery, and by means of such pretence and misrepresentation obtained Letters Patent under the Great Seal of the then Provinces of Ontario and Quebec, dated the 10th day of March, in the Year of our Lord one thousand eight hundred and sixty-eight, and similar in form to the Letters Patent so issued to the said M. N. as aforesaid, to be issued to him, the defendant in that behalf, which Letters Patent so issued to the defendant were and are upon and subject to the following amongst other conditions contained therein: that is to say, that if the defendant was not the first discoverer and inventor of the alleged invention therein mentioned, or if the same was known or in use in such Province before the same was invented by the defendant, and before his application for those Letters Patent, then and in every such case such Letters Patent should cease and determine, and become null and void.

20. The plaintiff charges that the defendant was not the first discoverer or inventor of the alleged invention in such patent, and that such alleged invention was known and in use in said Province before the same was invented by the defendant, and before his application for such Letters Patent, and submits that by reason thereof such Letters Patent always were and are null and void.

21. The defendant now pretends the said pretended patent invention is an improvement upon the said patent invention of the said M. N., to the extent in the particulars in his answer in this suit, and particularly in the eleventh section of such answer alleged, and is as such new and useful and patentable, while the plaintiff charges the contrary, and that the said pretended patent so issued to the defendant as aforesaid is not in such shape, and that the defendant does not in his specification in that behalf so claim.

22. The defendant has continually since the said issue to him of the said Letters Patent for his said pretended invention, and under colour and pretence thereof, and within the Province of Ontario, and in fraud and wrong of the plaintiff, and to his great injury, manufactured, used and sold by a very great number of persons, and amongst others by one W. B., one M. H., and one J. C., for profit and gain to the defendant in that behalf, great

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numbers of drums and drum heaters of such close outward resemblance to those drums and drum heaters so manufactured and sold by the plaintiff as aforesaid as not to be distinguished therefrom, unless by very minute inspection and examination, and constructed according to said patent invention of the plaintiff, but not thoroughly and properly carrying out the principles thereof, and being by reason thereof inferior articles, and of less value than those of the plaintiff above mentioned.

23. The defendant also in fraudulent and wrongful imitation of the said trade names and bronze-coloured label of the plaintiff, all of which were, in fact, well known to the defendant, labelled and designated each of such drums or drum heaters so by him, the defendant, manufactured and sold and licensed, caused and procured to be manufactured and sold as aforesaid, with a label in shape, size, colour and general appearance closely resembling the said label of the plaintiff, but having thereon the words "W's Economizing Heater," patented March 10th 1868, and also advertised and offered for sale such drums and drum heaters of defendant by trade names closely resembling those of the plaintiff above mentioned, and also caused to be published in the public newspapers of Ontario, articles in the form of editorials, falsely, wrongfully and maliciously slandering and depreciating the said patent invention, drums and drum heaters of the plaintiff, and comparing them falsely and disparagingly to and with the said pretended patent invention of the defendant and his said drums and drum heaters, and in particular the defendant caused one of such false, wrongful, malicious, defamatory editorial articles to be published in the issue of the 30th December, A. D. 1868, of the *Hamilton Evening Times* newspaper, of the City of Hamilton, in the Province of Ontario, and in the issue of the 31st December, A. D. 1868, of the *Hamilton Evening Times*, of same place, to which the plaintiff refers your Lordships for particulars thereof, and the defendant threatens and intends to, and unless restrained as hereinafter prayed will, continue such grievances.

24. By means of such wrongful and fraudulent devices the defendant has greatly interrupted and injured the plaintiff's said trade and business, and has so sold and so caused and procured to be sold, in divers places in the Province of Ontario, to divers of the public there who otherwise would have purchased the said drums and drum heaters so fraudulently, and caused to resemble the plaintiff's as aforesaid, and in particular, the defendant so sold and



licensed, and caused and procured to be sold two of such drums and drum heaters so resembling those of the plaintiff as aforesaid to one D. T., of the Village of Paris, in the County of Brant, in said Province; two more thereof to one G. H., of the same place; two more thereof to one J. B., of the same place; two more thereof to one R. O. C., of the City of Hamilton, in the said Province; two more thereof to E. and G. M., of the same place; two more thereof to W. B., of Hamilton aforesaid; two more thereof to J. M., of Hamilton aforesaid; two more thereof to A. W., of Hamilton aforesaid; four more thereof to the Trustees of the Pearl Street school-house, of St. Mary's Ward, in Hamilton aforesaid; two more thereof to J. W., of Hamilton aforesaid; two more thereof to M. H., of Hamilton aforesaid; two more thereof to G. S., of Hamilton aforesaid; two more thereof to the G. W. R. Coy., at Hamilton aforesaid.

25. The said inferiority of those drums and drum heaters so sold and licensed, and caused and procured to be sold by the defendant in the manner aforesaid, together with their said similarity in appearance, and in the alleged trade names thereof, and the label prices and labels thereupon to those of the plaintiff, also is calculated to injure, and in fact does wrongfully injure the plaintiff in his said trade and business, by damaging the public reputation of the said drums and drum heaters of the plaintiff, for which they are designed and likely to be and are often mistaken.

The plaintiff therefore prays as follows :

1. That the said Letters Patent so issued to the defendant as aforesaid may be declared to be and to have always been null and void by reason of the aforesaid misrepresentation and misconduct of the defendant in obtaining the same, and by reason of the said want of novelty, in the said pretended invention of the defendant and by reason of its said want of usefulness and by reason of those Letters Patent including the same invention and discovery, or a material part of the same invention and discovery, as the prior Letters Patent so granted to said M. N. as aforesaid.

2. That the defendant, his agents, servants and workmen may be restrained by the Order and Injunction of of this Honourable Court until the hearing of this cause and thenceforth perpetually by the decree of this Court, from manufacturing, using, selling, offering for sale or licensing or causing any other or others to manufacture, use, sell, offer for sale drums, and drum heaters or other

machines constructed according to his said pretended patent invention, and from selling or offering or exposing for sale or disposing of or parting with the custody of any of the said drums and drum heaters so by the defendant manufactured and offered for sale as aforesaid and any other similar drums and drum heaters bearing and having the above mentioned, or any other fraudulent and colourable imitation of the said trade, name and style of the Plaintiff therein without the license and authority of the Plaintiff in that behalf.

3. And from manufacturing, using, selling or disposing of or parting with the custody of, unless with the leave, and license of the Plaintiff, any drum heaters or other machines or any mechanism or apparatus calculated or intended to be used in or as parts thereof made in accordance with the said patent invention of the said M. N. or with colourable deviation therefrom or with the substitution of mere mechanical equivalents for the same or some parts or otherwise in accordance with said patent invention of said M. N. simply changing the form or the proportion of the drum heater or machine whether the same be or be not also constructed according to the said pretended patent invention of the defendant.

4. That an account may be taken of the gains and profits which the defendant has made as aforesaid and defendant decreed to pay the same to plaintiff.

5. That defendant may be decreed to compensate plaintiff for the damage by him sustained by the wrongful acts of the defendant in the premises, and that all proper directions may be given and accounts taken in in that behalf.

6. That defendant may be decreed to deliver up to plaintiff, all drum heaters and other machines, mechanism and apparatus in the possession or power of the defendant which have not been made by the plaintiff, or the plaintiff and the said M. N. or the said M. N., or his heirs, lawful representatives or assigns or by their or some of their license or authority and which have been made according to the said patent invention or with such deviations or substitutions as aforesaid or which are calculated and intended to be used as aforesaid or which have the above mentioned or any other wrongful and fraudulent imitations of the said trade, name and style of the plaintiff thereon.

7. That Defendant may pay all the costs of this suit.

8. And that Plaintiff may have such further and other relief as may seem meet.

893.  
Bill to correct  
error in description of  
lands in Deed  
and Mortgage.

In Chancery.

Between The Merchants' Bank of Canada,  
Plaintiffs.

and

E. G., J. B. M., C. G., G. W. B., C. A.  
S., J. F., C. F., R. J. C., J. A. M.,  
and T. C. S., Executrix and Execu-  
tor of O. T. M., H. McK., and A.  
K.,.....Defendants.

City of Hamilton  
to wit.

To the Honourable the Judges of the Court of Chancery.

The Bill of Complaint of the Merchants' Bank of Can-  
ada.

Sheweth as follows :

1. In and prior to the year 1853, the defendant, H McK., was the owner in fee simple of a certain parcel of land situate in the City of Hamilton, in the County of Wentworth, described as follows, that is to say : (*copy description of land.*) This property the said H. McK., on the 1st June, 1853, sold to the defendants, G. W. B. and C. A. S., for the sum of £1,375; no part of the said money was to be paid down, the agreement being that said H. McK. should convey the said lands to the defendants, G. W. B. and C. A. S., who were upon such conveyance to mortgage the said lands in fee to the said H. McK., to secure payment of the said sum of £1,375, and interest at the rate of six per cent., at the end of ten years from the said 1st June, 1853, with interest payable yearly in the interim. At the time of said sale the said parcel of land was fenced in, a Tavern was built on part thereof, and the whole of said land was used in connection with the said Tavern and then in the occupation of a tenant, and the said Lot surveyed and laid out into Town Lots, and said H. McK. owned no other portion of said Lot number

2. In execution of the said agreement the said H. McK., by Indenture dated 1st June, 1853, conveyed the said lands, in fee simple, to said defendants, G. W. B., and C. A. S., who immediately mortgaged the said lands in fee to the said H. McK., to secure the payment of the sum of £1,375, and interest at the times and in the manner hereinbefore mentioned, the said mortgage bearing date on 1st June, 1853, and being made by the said G. W. B. and C. A. S. of the first part, E. the wife of said G. W. B., who merely joined therein to bar her inchoate right to dower, of the second part, and the said H. McK. of the third part, and the said tenant of the said H. McK., by

the directions of the said H. McK., attorned to and became the tenant of the said lands to the said G. W. B. and C. A. S., in pursuance of the terms of the said sale. The said deed of conveyance and mortgage of said lands were prepared by the defendants, G. W. B. and C. A. S., and said lands were and are by mere error and inadvertence erroneously described in the said deed and mortgage, the description therein given being incorrect only so far as the metes and bounds of the said parcel are concerned, the said parcel being properly described as to the extent thereof, and as to being a part of said original Township, Lot — now a part of the City of Hamilton as aforesaid, but the point of commencement of the metes and bounds of said parcels and the courses of the boundaries thereof are therein stated in these words, (*Copy description*.) the error in said description being that the position of the post therein referred to is stated to be on the limits between lots 13 and 14, instead of on the limits between lots 12 and 13, as the position of said post in fact is, and said post in fact was at the time of making the said deed and mortgage, and now is the north-west angle of King and Wellington Streets aforesaid. The other courses of the boundaries given in the description contained in the said deed are wholly inapplicable to a parcel of land to be contained within said boundaries as the parcel so described, would not from the relative positions of said original Township lots 13 and 14, include any portion of said original Township lot 13, beyond the imaginary line forming the extreme west boundary of said lot 13. The said G. W. B., C. A. S., and H. McK., at the time of the execution of said deed and mortgage, believed that the post referred to as on the limit between lots 13 and 14, and being point of commencement was, in fact, the north-west angle of King and Wellington Streets aforesaid, and intended that such angle should be the point of commencement.

3. The said H. McK., by an Indenture dated 2nd January, 1863, and made for valuable consideration between the said H. McK. of the first part, and the Commercial Bank of Canada of the second part, bargained, sold, assigned, transferred and set over to the said Commercial Bank of Canada, their successors and assigns, the said Indenture of mortgage referred to in the second paragraph hereof, together with the said sum of £1,375 and interest thereon from 1st December, 1859, (all prior interest having been paid,) and the said lands described in the first paragraph hereof, but by error and inadvertence the said

lands were and are described in said Indenture of Assignment in the same words as the same are described in the said deed and mortgage, the error therein being of precisely the same nature as that set forth in the second paragraph hereof, the description of the lands given in said assignment being copied from that given in said mortgage, without any knowledge of the error aforesaid. The estate, rights and interest of the said Commercial Bank of Canada in the said lands, mortgage, mortgage money, interest and assignment, became, and were and are vested in the plaintiffs, under and by virtue of an Indenture of union, dated 27th February, 1868, made between the said Commercial Bank of Canada and the Merchants' Bank, whereby the property and effects of the said Banks became amalgamated and vested in the Plaintiffs, by their said corporate name, under the provisions of the "Commercial Bank Act, 1867." The said Indenture of union has been duly published in the Official Gazettes, as required by the said Statute.

4. The defendants G. W. B. and C. A. S., sold a portion of the said lands to R. R. W. and D. P. G., under whom the defendants. E. G., J. B. M., C. G., G. W. B., as Executor of A. C., R. J. C., J. A. M., and T. C. S., Executrix and Executor of O. T. M. and A. K., respectively, claim Title. The deeds of conveyance of the said portion sold to said R. R. W. and D. B. G., describe the same correctly as being situated on the north-west corner of King and Wellington Streets and on such sales the said G. W. B. and C. A. S., delivered possession of the portions so sold to the said R. R. W. and D. B. G.

5. All the interest which accrued due upon the said mortgage, made by the said defendants B. and S., to the defendant McK., up to and inclusive of the instalment of interest which fell due on 1st December, 1859, has been fully paid and satisfied, but no further sum has been paid on account of interest, except by receipt of rents and profits as hereinafter mentioned, and the whole amount of principal thereby secured is now past due and wholly unpaid and unsatisfied.

6. The said Commercial Bank of Canada took possession of a portion of the said lands as Mortgagees as aforesaid, on or about the 19th day of August, A. D. 1863, and of the residue of said lands about the 16th day of September, 1864, and continued in possession thereof till the time of the amalgamation of the said Bank with the plaintiffs Bank hereinbefore mentioned, and the plaintiffs are now in possession of said mortgaged lands.

7. The defendants, other than the defendant McK., are entitled to the equity of redemption of the said mortgaged premises. The defendant G. W. B., as well in his own individual interest as executor of the last will and testament of A. C., deceased, the said R. R. W. and D. B. G., and all the said defendants had actual notice and knowledge of all the facts and circumstances hereinbefore set forth before and at the time they severally acquired their respective estates and interest in the said mortgaged premises.

8. The plaintiffs have offered to the defendants, to join in and execute a proper deed or proper deeds to correct the said errors and requested the said defendants to join in and execute the same or that said defendants, except said H. McK., should pay off the said mortgage, but the said defendants neglect and refuse to comply with said request.

The plaintiffs pray as follows:

1. That the said deeds of conveyance and mortgage and assignment thereof, in the first and second paragraphs of the Bill mentioned, may be rectified by correcting the description of the lands therein referred to, so as to describe the said lands as the same are described in the first paragraph of said Bill; and that the plaintiffs may be declared mortgagees thereof, and entitled to have a lien thereon for the said £1,375, and interest.
2. That the plaintiffs may be paid the said sum of £1,375 and interest, and costs of this suit; and in default thereof, that the equity of redemption of the said mortgaged premises may be foreclosed.
3. That for the purposes aforesaid, all other necessary directions may be given and accounts taken; and the plaintiffs may have such further and other relief as the nature of the case requires, and to the Court shall seem meet. And the plaintiffs will ever pray, &c. .

E. M.,  
*Plaintiff's Solicitor.*

In Chancery.

Between—E. D. and S. D. D.,.....Plaintiffs,  
and  
J. K.....Defendant.

City of Hamilton.

To the Honourable the Judges of the Court of Chancery.

894.

Bill to prevent  
use of a trade-  
mark.

The Bill of Complaint of E. D., of &c., and S. D. D., of &c. ;  
Sheweth as follows :

1. In the winter of the years 1839 and 1840, P. D., the father of the plaintiffs, who then resided at Taunton, in the State of Massachusetts, invented and compounded a certain medicine of great value, useful in curing many ailments and diseases, and in the early part of the year 1841, commenced to manufacture the same at Fall Rivers, in said State of Massachusetts, in quantities, and applied thereto the trade-mark and name of "Pain-Killer," and by that name and trade-mark sold the same in bottles, on which, and on the wrappers of which, the word "Pain-Killer" was conspicuously printed or impressed, and the said medicine was then called "Pain-Killer," and has ever since been, and is now, known by that name.

2. The said P. D. was the original and first inventor of the said medicine, and of the said name of "Pain-Killer" therefor, and was the first person who used the name of "Pain-Killer" as a trade-mark as applied to said medicine, by which the said medicine should thereafter be known and sold, and no person but said P. D. ever before had used the said name of "Pain-Killer," or applied the same as a name or trade-mark for any medicine or article of commerce.

3. In the year 1843, the said P. D. removed to Providence aforesaid, where he continued the manufacture of the said medicine and the use of the said trade-mark of "Pain-Killer," as applied thereto in manner aforesaid, and the said medicine acquired great reputation, and large quantities thereof were thereafter continually manufactured and sold by the said P. D. in Canada West, and in the United States of America, Great Britain, and many other parts of the world. The said P. D. spent large sums of money in advertising his said medicine and the said trade-mark of "Pain-Killer," as applied thereto, and by these means the same was known to the trade and the general public of Canada West, and elsewhere, by the name of "Pain-Killer," and whenever "Pain-Killer" was asked for in shops and elsewhere, the said medicine so invented as aforesaid by the said P. D. was intended, and was supplied by that name, and that state of facts has continued from the year 1841 down to and at the present time.

4. In the year 1850, the said P. D. sold and transferred to the plaintiff, E. D., one-half share or interest in the said medicine, and in the said trade-mark of "Pain-Killer," and the said P. D. and E. D. adopted the name, style and firm

"P. D. and Son," and by that name advertised the said medicine and trade-mark in manner aforesaid, and continued in manner aforesaid, at Providence aforesaid, to manufacture the said medicine, and to sell the same in Canada West and elsewhere, and to apply thereto the said trade-mark of "Pain-Killer," and sell the same by said name in the same way and manner in Canada West and elsewhere, as it is hereinbefore stated, that the said P. D. had done prior to the said sale and transfer to the said E. D.

5. On the second day of May, 1862, the said P. D. died intestate, at Providence aforesaid, having at the time of his decease his fixed place of abode and domicile at Providence aforesaid, leaving him surviving his widow R. D., the said E. D., his only son, and the said plaintiff, S. D. D., his only daughter, and no other child or children, or the descendants of any child, and by the laws of the said State of Rhode Island, in that case and under the said state of facts, the property in the said trade-mark and business thereby, under the circumstances stated in this paragraph, became absolutely vested in the said plaintiff, E. D., as surviving partner of the said P. D., and (on the appointment of said E. D. as administrator of said P. D., as hereinafter mentioned) as the legal personal representative of the said P. D., and the said plaintiffs and R. D. were the sole next of kin of said P. D., and as such entitled to the whole of the property and effects of the said P. D., and being so entitled the plaintiffs purchased from the said R. D. all her share and interest in the said estate, business and trade-mark of the said P. D., and the said R. D., by deed poll, dated 1st day of January, 1863, duly conveyed and assigned to the plaintiffs all her said share and interest in the said estate of the said P. D., and in the said trade-mark, and the said plaintiffs then agreed to, and did become jointly the owners of the said trade-mark, and of the whole of the estate and effects of the said P. D., and the plaintiffs continued the said business of the said firm of P. D. and Son, under the same name, and also continued the manufacture and sale of said medicines and the use of said trade-mark, by the same means and in the same way and manner in every respect as the said P. D. and E. D. had done, and they still continue the same.

6. On the tenth day of June, 1862, the said E. D. was duly appointed administrator of the personal estate and effects of the said P. D. by the Municipal Court of the City of Providence aforesaid, within the jurisdiction of the said Court.



7. The plaintiffs are now the sole and absolute owners of the said business of manufacturers of the said medicine called "Pain-Killer," and sole and absolute owners of the said trade-mark called "Pain-Killer," applied thereto in manner aforesaid, and carry on the said manufacture and use of said trade-mark in manner aforesaid, at the said factory, in Providence, where the said P. D. carried on the same, and the said medicine of the plaintiffs is still called and known, and by them sold throughout the whole of Canada and elsewhere as aforesaid as "Pain-Killer," and the said trade-mark or name of "Pain-Killer" is still applied thereto as a trade-mark in the way and manner aforesaid, and the same is sold by the said plaintiffs and dealers in said article by the said trade-mark "Pain-Killer," and save in the illegal and fraudulent way and manner in the ninth paragraph of this bill set forth, there is no other medicine to which the trade-mark of "Pain-Killer" is applied, and whenever medicine called "Pain-Killer" is asked for, the said medicine of the plaintiff's is the article thereby intended, and the said medicine and trade-mark still preserve their said high reputation and value.

8. On the 22nd day of March, 1866, the plaintiffs caused their said trade-mark of "Pain-Killer," as applied to their said medicine, and the bottles, wrappers and packages containing the same, and used by them in manner aforesaid, to be registered as a trade-mark by the Secretary of the Board of Registration and Statistics, at the said Bureau, in strict accordance and compliance with the Statute of Canada, called "An Act to amend the Act respecting trade-marks, and to provide for the registration of designs," passed in the twenty-fourth year of the reign of Her Majesty Queen Victoria, chapter 21, and have procured the certificate of such registration, in accordance with the terms of said Act, and for greater certainty as to the contents thereof, crave leave to refer thereto when produced by the plaintiffs, and such registration remains in full force and effect.

9. The defendant was and is well aware of the facts and circumstances hereinbefore stated, but knowing the value of the said medicine, and the value and reputation of the said trade-mark, applied thereto in manner aforesaid, but intending to defraud the plaintiffs, and to violate the provisions of the said Statute, and to enrich himself at the plaintiffs' expense and deceive the public, has fraudulently manufactured, used and put up, and sold in the City of Hamilton, in Canada West, a certain compound or medicine in colourable imitation of the Plaintiffs', and

bottled the same, and stamped, affixed, printed and applied to the said bottles and wrappers thereof, the plaintiffs' said trade-mark "Pain-Killer," in imitation of the said trade-mark of the plaintiffs, called "Pain-Killer," in such a way and manner that the public are, by the said fraudulent use of the plaintiffs' trade-mark, "Pain-Killer," deceived and led to purchase the articles so made by the defendant instead of those so made by the plaintiffs, and at lower prices than that of the plaintiffs', whereby the plaintiffs are greatly injured in their trade, and the public defrauded, and by reason of the premises the value of the said trade-mark is greatly injured, and the defendant is actively engaged in carrying on the said fraudulent use of the plaintiffs' said trade-mark in the way and manner in this paragraph set forth.

10. The plaintiffs are unable to discover when the said defendant first commenced to use their said trade-mark in the manner set forth in the next preceding paragraph, but on learning the said facts in the autumn of the year 1866, the plaintiffs sent their agent, W. L., to warn the defendant to desist from his said conduct, and to cease using the said plaintiffs' said trade-mark. The said L. then saw the said defendant at his place of business, in Hamilton aforesaid, and gave him express notice of the registration of the said trade-mark, as set forth in the eighth paragraph of this Bill, of all the other facts hereinbefore set forth, and requested him to desist from the further use of the plaintiffs' said trade-mark, but, nevertheless, the said defendant fraudulently continues at his said place of business, in Hamilton aforesaid, and elsewhere in Canada West, to use and apply the said plaintiffs' said trade-mark to his own medicines in the way and manner hereinbefore mentioned, and thereby to deceive the public, and does in manner aforesaid deceive the public and defraud the plaintiffs in manner aforesaid, and the defendant by so doing obtains benefits and advantages for himself in fraud of the plaintiffs, and the defendant is now daily selling his said medicine by means of his said fraudulent use of the said trade-mark applied thereto, and the defendant threatens and intends to continue so doing, and will do so unless restrained by the order and injunction of this Honourable Court.

11. The defendant has a large quantity of his said medicines put up and labelled, and marked in manner aforesaid, with the said trade-mark of the plaintiffs, and has offered the same for sale, and by means of the said fraudulent use of the plaintiffs' said trade-mark, is daily

selling the same in fraud of the said rights of the plaintiffs, and to their injury.

The plaintiffs pray as follows :—

1. That the defendant, his servants, agents and workmen may be restrained by the order and injunction of this Honourable Court from the further use of the plaintiffs' said trade-mark, "Pain-Killer," and from printing, impressing or applying the same to any bottle or package of any kind, containing medicine manufactured, sold or put up by him, his servants, workmen or agents, or applying the same to any wrapper, package, parcel or other thing, or in any other way using or applying the said trade-mark or name of "Pain-Killer," and that the medicine so put up by the defendant, and fraudulently marked with the trade-mark of the plaintiffs, as set forth in the seventh paragraph of the plaintiffs' Bill, may be destroyed.
2. That the defendant may be ordered to pay the costs of this suit.
3. That an account be taken of the profits in anywise directly or indirectly made by the defendant by the use of the said trade-mark of the plaintiffs.
4. That such other accounts may be taken and orders made, and relief granted, as the nature and circumstances and the Court shall require.

And the plaintiffs will ever pray, &c.

E. M.,  
Plaintiffs' Solicitor,

895.

Bill to enforce In Chancery,  
covenants of a  
building lease,  
against the  
personal repre-  
sentatives of  
the lessor.

Between S. M.....Plaintiff  
and  
W. H., W. M. S. and C. S. his Wife, G. R. and M.  
R. his Wife, J. B. and E. B. his wife, R. McE.  
and C. McE. his Wife, J. T. and C. T. his Wife,  
S. McD., G. B., J. B. and C. W.....Defendants.

City of Hamilton,

To wit :

To the Honorable the Judges of the Court of Chancery :  
The Bill of Complaint of S. M., of the City of Hamilton,  
Esquire.

Sheweth as follows :

1. P. H., in his lifetime, of the City of Hamilton, Gentleman, but now deceased, was the owner in fee simple, of

lot number one at the Northern corner of York and Hess Streets, on the North side of York Street in the said City, and while so seized by Indenture, dated the 20th day of April 1854, and made between the said P. H., and one J. McC., the said P. H. demised and leased the said lot to the said J. McC. his executors, administrators and assigns, for the term of eight years from the date of said Indenture, at the yearly rent of \$15, payable on the 20th day of April of each year during said term; and it was further declared and agreed by the said lease, that the said P. H. his heirs executors, administrators or assigns, at the expiration of said term should pay or cause to be paid to the said J. McC. his heirs, executors, administrators or assigns, the value of any house or houses, and all other buildings and improvements, that the said J. McC. his heirs, executors, administrators or assigns, might during the said term, erect and put up on said premises after a valuation thereof should have been made.

2. The said J. McC. took possession of the said lot, under the said lease, during the said term, and erected valuable houses and buildings, and made valuable improvements thereon, and afterwards and during said term by indenture dated the 4th day of June, 1857, made by said J. McC. and C. T., the said J. McC. assigned the said lease, covenants and agreements and said term, and his right to the said buildings and improvements to one C. T., who also during said term erected valuable buildings and made valuable improvements thereon, and the said C. T., by deed dated the 22nd day of December 1862, assigned to the plaintiff the said lease and the covenants and provisos therein contained, and his right to all the said buildings and improvements, and to compensation therefor.

3. The said P. H. died in August 1855, having first duly made and published his last Will and Testament, dated the 17th day of July 1855, and a Codicil thereto dated the 30th day of July 1855, both duly executed so as to pass real estate in Upper Canada, whereby the said P. H. did, amongst other things devise, and bequeath the said lot one to H. S., E. J. and J. K., who were the executors named in his will in trust for the only benefit of R. B. (a grandson of said P. H.,) until he should attain the age of thirty years, and then the residue to the said R. B. in fee simple; but if he should not attain the age of thirty years, then in trust for the heirs of the body of the said R. B. in fee simple, and in default of such issue, then in trust for the right heirs of said P. H. By the said Will

and Codicil, the said P. H. gave a legacy of \$100 to the defendant G. B., a legacy of \$100 to said J. B., also a legacy of \$1500 to the Defendant S. McD., also a legacy of \$200 to the Defendant C. W., the said P. H. also devised a certain lot of land to his widow R. H. in trust for the defendant C. W., subject to certain conditions which have happened; the said P. H. also by his said will made a certain provision for R. H. his widow, and thereby directed that such provision should be in lieu of the dower of said R. H. as the widow of said P. H., and the said R. H. has accepted such provision in lieu of said dower, and after devising certain portions of his real estate respectively to his daughters, the defendants C. S., M. R., E. B. S. McD., and to his grandson the defendant W. H., and his granddaughter the defendant C. T., and to the said H. S., E. J. and J. K. in trust for said R. B. as aforesaid, and another portion of said real estate to the Wesleyan Methodists; the said P. H. bequeathed and devised the whole of his personal estate, which exceeded \$80,000 in value, and the residue of his real estate, and of all his property and effects (after paying his debts and funeral expenses) to the said H. S., E. J. and J. K. in trust to sell and convert into money, and divide the whole thereof between and among the said C. S., M. R. E. B., S. McD., W. H., C. T. and R. B. for their own use in certain shares and portions therein set forth, it being provided by the said Will, that on the death of the said S. McD., her share should fall in to said residue and be equally divided amongst the Testator's surviving grand children and children, as provided in reference to the residue, and for greater certainty as to the contents of the said Will, the plaintiff prays to refer thereto when produced.

4. The said H. S., E. J. and J. K., duly proved the said Will, and probate thereof was granted them by the proper Court in that behalf whereby they became the legal personal representatives of said P. H.; and afterwards a suit for the administration of the estate of said P. H. was duly instituted in the Court in which the said C. S. by her next friend, and the said W. H. were plaintiffs, and the said executors (as such executors) and others were defendants, and in which cause the whole of the estate of the said P. H. was distributed under the order and direction of this Court, and no part thereof now remains in the hands or custody of the said H. S., E. J. and J. K., or either of them as such executors as aforesaid. The said devise to the Wesleyan Methodists was declared void by the decree in said suit, and the said P. H. died

intestate as to the said parcel of land devised to the said Wesleyan Methodists.

5. Neither the plaintiff, the said J. McC., nor C. T. were parties to the said suit, or the proceedings therein, or had any notice or knowledge thereof, nor was the claim for the said buildings and improvements, proved or proveable in the said cause, or in any way adjudicated upon therein.

6. The said R. B. died in the month of August, 1867, a bachelor under the age of 30 years, and intestate and insolvent, and no person has been appointed or is likely to be appointed as his personal representative.

7. The said P. H. left him surviving, and his heir and heiresses-at-law, his grandson the said R. B. and his granddaughter the said C. T., and his daughter S. McD., the wife of the defendant S. McD., and the defendants, C. S., wife of the defendant W. M., S. M. R., wife of the defendant G. R., E. B., wife of the defendant J. B., C. McE., wife of the defendant R. McE., and no other child or children, or the issue or descendants of any deceased child or children. The said S. McD. survived the said P. H. a short time, and then died intestate without issue, and she left no personal estate or debts, and no person has been appointed, or is likely to be appointed as her personal representative. The defendant G. B., J. B., and C. W., have each received the said legacies to which they were respectively entitled, and the said lot of land bequeathed to said R. H. in trust for said C. W., has been conveyed to said C. W., in accordance with the terms of said devise, and the said C. W. has since sold and disposed thereof, and neither said G. B., J. B., or C. W., are entitled to, or have received any other benefit under said will or codicil. The defendants, G. R., J. B. J. T., and W. M. S., have respectively received, with the consent of their said wives portions of the real and personal estate of the said P. H. to which their said wives were entitled respectively and the defendants hereto, have under the terms of said will and codicil, received all that they were entitled to respectively thereunder, and have now in their possession a large amount of personal property, being a part of the residuary estate of the said P. H., and a large amount of money, being also a portion of the proceeds of the residuary personal estate of the said P. H., and to an amount more than sufficient to satisfy the claim of the plaintiff for the said buildings and improvements made under said lease, and the defendants the said heiresses-at-law of P. H. and W. H., have also

received large sums of money, the proceeds of the said real estate of the said P. H., and became entitled as heiresses and devisees as aforesaid of said P. H., to other portions of his said real estate, of which they are still respectively the owners, and which in value far exceeds the said claim of the plaintiff, and the said lot so leased as aforesaid, is now vested in the said heiresses-at-law of the said P. H., and has not been in any way disposed of.

8. Neither the said plaintiff, nor the said J. McC., nor the said C. T. have been paid for the said buildings and improvements, or any part thereof, and the plaintiff charges that he is entitled to be paid the value thereof, with interest, under the said covenant of the said P. H., contained in the said lease and that the real and personal estate of the said P. H. was liable to pay and make good the same to the plaintiff, and that the defendants are under the facts in the bill set forth now in respect of their proportionate shares of the personal estate of said P. H. received by them, liable to pay and make good the same to the plaintiff, and for that purpose, to refund proportionately a sufficient amount of the personal estate of the said P. H.; and the plaintiff, before the commencement of this suit, gave all the defendants hereto, notice in writing of the nature and effect of said lease and the said facts relating thereto, requested the said defendants to have said houses, buildings and improvements, valued under the term of said lease, and asked the defendants to appoint a valuator thereof on their behalf, offering to do the same on his behalf, and also to do and perform all other acts and things (if any) necessary to have a valuation of said houses, buildings and improvements made under the provisions of the said lease, and requested the defendants, in manner aforesaid, to pay the plaintiff the value of said buildings and improvements, and the plaintiff thereby warned the defendants, that unless the plaintiff's claim for said houses, buildings and improvements under said lease, was fairly adjusted and paid within a reasonable period, (which had long elapsed before the commencement of this suit,) the plaintiff would institute this suit for the purposes set forth in the prayer hereinafter contained; but the said defendants have paid no attention whatever to the said demand, but on the contrary, deny that the plaintiff has any claim whatever under the said lease, and the defendant R. McE. insists that the said lease is a forgery.

9. All the covenants and agreements contained in the said lease, to be performed by the said J. McC., his heirs,

executors, administrators or assigns, have been fully kept and performed so as to entitle the plaintiff to be paid for the said buildings and improvements under the terms of said lease, and the term created by the said lease, has expired since the death of said P. H., and save the said claim of the plaintiff, there is no debt or claim against the said estate of said P. H., now unsettled or outstanding.

10. The defendants, G. B., J. B. and C. W., have removed to some portion of the United States of America, unknown to the plaintiff, and said defendants are now permanently residing in the said United States, and they have no means or property within the jurisdiction of this Honorable Court.

The plaintiff prays as follows :

1. That an account may be ordered to be taken of the amount to which the plaintiff is entitled for the value of the houses, buildings, and all other the improvements erected on the said lot, by the said J. McC. and C. T. under the terms of said lease, and that for that purpose a valuation thereof may be made; the plaintiff hereby offering to do and perform all (if any) acts, matters or things that may be necessary on his part for that purpose; and that the plaintiff may be paid the amount so ascertained by the defendants, and for that purpose that the said defendants may be decreed to pay and refund to the plaintiff a sufficient sum to make good the same rateably and proportionally to their shares of the personal estate of the said P. H., received by them as aforesaid respectively.

2. That it may be declared that the real and personal estate of the said P. H. was and is liable to pay and make good to the plaintiff, the amount to which he may be found entitled as and for the value of said houses, buildings and improvements aforesaid, under the account to be taken as prayed for above, and that the said amount may be paid out of the said personal assets of the said P. H., but if the same shall be insufficient for that purpose, then that the same shall be raised and paid out of the said real assets and estate of the said P. H., and that the said real estate so specifically devised and descended, remain assets of the said P. H. in the hands of said devisees and heirs respectively applicable to pay the said



claim of the plaintiff as aforesaid, and if the said defendants last named shall have disposed of any part of the said real assets so devised or descended as aforesaid, and there shall not remain enough of said real estate not disposed of to satisfy the said claim of the plaintiff, then that the said defendants last named, or such of them as shall have disposed of the said real estate so devised or descended, may be decreed to pay and refund to the plaintiff rateably and proportionally to their said shares of the said real estate, a sufficient sum to pay and discharge the said claim of the plaintiff.

3. That for the purposes aforesaid, and in order to enable the plaintiff to be paid the amount of his said claim, that all further directions and enquiries may be given, orders made and accounts taken that may be required.

4. That the plaintiff may be paid his costs of this suit.

5. That the plaintiff may have such further and other relief in the premises as the nature of the case may require.

E. M.

*Plaintiff's Solicitor.*

596.  
Bill for an account against a defendant who has fraudulently obtained administration of an estate.

In Chancery.

Between—J. G. S.....Plaintiff.  
and  
C. P., M. C., his wife, A. G. and M.  
B.....Defendants.

City of Hamilton.

To the Honorable the Judges of the Court of Chancery:  
The Bill of Complaint of J. G. S., of Temmelsdorf, in the Grand Duchy of Saxony, Gentleman.  
Sheweth as follows:

1. J. G. S. the Son of the Plaintiff, for some years previous to the year 1863, resided in the City of Hamilton in Canada West, where he carried on the business of a Saloon keeper, and was in that year the owner in fee simple of a valuable Brewery and several City Lots in the said City of Hamilton, and possessed of cash, moneys and personal property to a large amount.

2. The Defendant, M. C., lived with the said J. G. S. for several years, prior to and in the year 1863, and was in

fact his Mistress: the said J. G. S. being desirous to put an end to the said connection which had subsisted between him and the Defendant M. C., with that view he prepared a document for the signature of the said Defendant M. C., acknowledging that she was his Mistress, and that such connection had been dissolved, and in order to make a suitable provision for the said M. C., and to procure her to execute said document, he then paid her the sum of \$1,500 in cash, and thereupon on the thirteenth day of July, 1863, such document was duly signed by both, the said M. C., and the said J. G. S., and for greater certainty as to the contents thereof, the Plaintiff craves leave to refer thereto when produced.

3. Immediately after the execution of the said document, and payment of the said sum of \$1,500 to the said Defendant, M. C.—that is to say, some time in the month of July, 1863, the said J. G. S. left Hamilton to pay a visit to the plaintiff, who then and still lived at Temmelsdorf aforesaid, intending to stay there for some months, and then return to his home, in Hamilton, aforesaid.

4. The said J. G. S. agreed to allow the said defendant, M. C., during his absence, to retain possession of his saloon and furniture, and to carry on the business for her own benefit, and the same are now in the possession of the said defendants, M. C. and C. P.

5. On the thirteenth day of July, 1863, immediately before leaving Hamilton for his said intended journey, the said J. C. S. deposited in the Bank of British North America in Hamilton, the sum of \$4,000 at interest, and received from the Bank six deposit receipts therefor, each of said receipts bearing date the 13th day of July, 1863, two thereof being for the sum of \$1,000 each, and the other four for \$500 each, bearing four per cent. interest if allowed to remain for three months or beyond that date: these receipts the said J. G. S. kept in his own possession and took with him to Temmelsdorf aforesaid. The said J. G. S. is described in the said receipts as "J. G. S.," by which name and also by the name of "J. S.," the said J. G. S. was known in Hamilton.

6. The said J. G. S., while on his said visit at Temmelsdorf aforesaid, died there on the 11th day of March, 1864, intestate, and a bachelor, leaving the plaintiff, his father, him surviving, whereby the plaintiff became, and was, and is entitled to, and the absolute owner of the whole of the said real and personal estate of the said J. G. S., and the said J. G. S. was not indebted in any sum whatever at the time of his decease.

7. The said defendant M. C., on hearing of the death of the said J. G. S., fraudulently represented and pretended that she was his lawful widow, and immediately applied for administration to the estate of the said J. G. S. to the Surrogate Court of the County of Wentworth, in Upper Canada, in which County the said J. G. S. had his fixed place of abode, and had left goods at the time of his death, and thereupon such proceedings were had within the jurisdiction of the said Surrogate Court, that the Defendant, M. C., was, on the 25th day of August, 1864, appointed sole administratrix of the personal estate and effects of the said J. G. S., and such grant has not been revoked.

8. In making application to the said Surrogate Court for administration to the estate of the said J. G. S., the defendant, M. C., falsely and fraudulently represented, and swore that his personal estate was under the value of \$150, and procured two persons of little or no means to become surety to the extent of \$300 for the due administration of the said estate, and the said defendants, C. P. and M. C. P., are in indigent circumstances.

9. It is the well known and established custom of the said Bank in respect of Deposit Receipts, like that granted to the said J. G. S., to pay the moneys therein mentioned, only upon the production of said receipts, and on the person applying for such payment being identified if not known to the said Bank, or their Managers for the time being, and such rule is adopted for the protection of the persons to whom such receipts are granted, and the said deposits were made by said J. G. S., with the knowledge of and in reliance upon such custom, and he, in order to obtain and retain the benefit thereof, carefully retained such receipts in his own possession, and had the same with him in Temmelsdorf, aforesaid when he died, and the same are now in possession of the plaintiff.

10. Upon the Defendant, M. C., demanding from the said Bank the said moneys, deposited therein by the said J. G. S., the said Bank having regard to their said custom and duty refused to pay the same to her until the said Receipts should be produced, whereupon the said defendant, M. C., applied for advice to the defendants A. G. and M. B., who are both men of some small means, and said A. G. is brother of the defendant M. C., and the defendant M. B. is a connection of the said defendant, M. C., and the said defendant, M. C., stated to them all the facts and circumstances hereinbefore set forth, and asked them to aid and assist her in so fraudulently obtaining the said moneys,

and offered them a share thereof for the trouble and risk they would incur, the said defendants A. G. and M. B. fraudulently agreed to assist the said defendant, M. C., in her said fraudulent design, and accepted the terms offered by said defendant, M. C., to share in the way and manner hereinafter mentioned, the said moneys so obtained from the said Bank, and in order to induce the said Bank to pay said monies to the defendant, M. C., the said defendants, A. G., M. B. and M. C. falsely and fraudulently represented to the said Bank that the said receipts were lost, and then offered to enter into a Bond to the said Bank, to secure the said Bank against loss or damages by reason of their paying said moneys to the said M. C., the said Bank agreed to accept such indemnity and pay over said money, and a Bond to secure the said Bank from loss or damage by reason of the payment of said moneys to said M. C., was prepared and executed by the said defendants M. C., A. G. and M. B., and thereupon in the month of September, 1864, the said moneys were paid over to the said defendant, M. C., by the said Bank, the said M. C. in pursuance of her said agreement immediately handed over the same to the defendants, M. B. and A. G. upon the trusts and for the purposes hereinafter mentioned.

11. Before and at the time of the execution of the said bond, and of the payment of the said moneys by the said Bank to the said defendant, M. C., and of the receipt of said moneys by said defendants, A. G. and M. B. from said M. C., the said defendants, A. G. and M. B. had actual knowledge and notice that M. C. was not the wife or widow of the said J. G. S., and that the said moneys were the sole property of the plaintiff as such next-of-kin of the said J. G. S. as hereinbefore mentioned, and of all the other facts and circumstances hereinbefore set forth.

12. In pursuance of the said fraudulent arrangement, the said defendants, A. G. and M. B. received the said moneys from the defendant, M. C., upon the trust and understanding that they should retain the same in their own hands, deal with, use and appropriate the same in some way or manner for the benefit and advantage of the said defendants, M. C., A. G. and M. B., and fraudulently to hinder and prevent the plaintiff from recovering or receiving the same.

13. The said moneys so received from the said Bank, are invested in mortgages, promissory notes, and other instruments and securities for moneys and lands, all whereof are in the possession and under the control of the defendants,

but of the nature and particulars whereof, the plaintiff is wholly ignorant, and the said defendants threaten and intend forthwith to dispose thereof, and convert the money received therefrom to their own use, and for that purpose have offered for sale several of the said securities, and have pressed for payment of others thereof, and the said securities are taken, and stand in the names of the said defendants or some of them, and are not stated to be held or taken on account of said estate of the said J. G. S. deceased, but appear on the face thereof to be the absolute property of the defendants holding the same, or to whom the same are made payable or transferred, and this plan has been adopted by said defendants, with the fraudulent purpose, intent, and design, of more easily disposing thereof to their own use, and frustrating the plaintiff in any endeavors to recover the same, and said defendants will dispose thereof for their own use, unless prevented by the order and injunction of this Honourable Court, and in order that the said securities and personal estate of said J. G. S., deceased, may be properly secured, collected and got in, it will be necessary that some proper party be appointed as a receiver thereof.

14. The said M. C., some time in the year 1865, intermarried with the defendant, C. P., and the said C. P. has acquiesced in, approved of and ratified the said dealings of the said defendants, M. C., A. G. and M. B., with the said estate of the said J. G. S., and is aiding and assisting them in their carrying out the design and purposes set forth in the preceding paragraphs of this Bill.

The plaintiff therefore prays as follows:

1. That the personal estate of the said J. G. S., may be wound up, and administered under the order and direction of this Honourable Court.
2. That the said defendants may be directed to bring in and deposit under Oath in this Honorable Court, all and singular, the said Mortgages, Promissory Notes and Securities, in which the said moneys belonging to the said estate of the said J. G. S., may now be invested or which have been purchased with the said moneys, and if the said moneys be invested in lands that such lands may be conveyed and dealt with in such way and manner as this Honorable Court shall direct in order to secure the same, or if any of said moneys be in the hands of said defendants, that the same may be forthwith paid into Court.

3. That the said defendants, and each of them, may be restrained by the order and injunction of this Honorable Court from further dealing or intermeddling in any way with the personal estate of the said J. G. S.

4. That the defendants may be directed to pay the plaintiff's costs of this suit, and make good to the said estate whatever moneys and effects they have received on account thereof.

5. That a receiver of the said personal estate may be appointed.

6. And that for the purposes aforesaid, all proper accounts may be taken, and directions given.

7. And for such further and other relief as the nature of the case shall require, and shall seem just.

8. And your Orator will ever pray, &c.

E. M.,  
Plaintiff's Solicitor.

In Chancery.

Between—M. B. .... Plaintiff,  
and  
J. McC. and L. McC. .... Defendants.

Town of St. Catharines.

To the Honourable the Judges of the Court of Chancery.

The Bill of Complaint of M. B., of the Township of Caistor, in the County of Lincoln, Spinster,  
Sheweth :

1. That on the second day of September, in the year of our Lord one thousand eight hundred and sixty-eight, your complainant commenced an action in Her Majesty's Court of Common Pleas for Ontario, against the above-named defendant, J. McC., and on the fifth day of November, in the year of our Lord one thousand eight hundred and sixty-eight, a verdict was rendered in the said action in favour of the plaintiff for three hundred and twenty-five dollars, and on the second day of January, in the year of our Lord one thousand eight hundred and sixty-nine, your complainant recovered a judgment in the said action at law, for the sum of three hundred and ninety-eight dollars and ten cents.

2. That on the second day of January aforesaid, your complainant caused a writ of *feri facias* against the goods and chattels of the said defendant, J. McC., and also

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Bill by judgment creditor to set aside conveyance by his debtor as fraudulent, under 13 and 27 Eliz., and of Con. Stat. of Canada, c. 26.

a writ of *feri facias* against the lands and tenements of the said defendant, J. McC., to be issued upon the said judgment, which writs of *feri facias* were placed in the hands of the Sheriff of the County of Lincoln, the County wherein the said last named defendant resided, and the said writ of *feri facias* against the goods of the said last-named defendant, has been returned by the said Sheriff *nulla bona*, meaning that the said defendant, J. McC. had not any goods or chattels in his bailiwick whereof he could cause to be made the said judgment, or any part thereof, and the said writ against the lands of the said last-named defendant now remains in the hands of the said Sheriff to be executed.

3. That the said judgment remains wholly due and unsatisfied, and the defendants refuse to pay the same.

4. That at the time your complainant commenced her said action at law, the said defendants were joint tenants in and entitled to the equity of redemption in the following lands: (*Describe the lands.*)

5. That shortly before your complainant recovered a verdict in the said action at law, and on the third day of November, in the year of our Lord one thousand eight hundred and sixty-eight, the defendant, J. McC., conveyed, or purported to convey, to the defendant, L. McC., who is his brother, all the undivided interest of him, the said defendant, J. McC., of, in, or to the said land and premises, and the consideration expressed in the said deed was the sum of five hundred and fifty dollars, which deed has been registered in the Registry Office of the County of Lincoln, and the same now appears in the books of registry in the said Registry Office.

6. Your complainant charges that although the conveyance in the fifth paragraph hereof purports to have been made for the valuable consideration of five hundred and fifty dollars, no consideration in fact passed from the said defendant, L. McC., to the defendant, J. McC., but the conveyance was simply voluntary and void as against your complainant.

7. Your complainant further charges that the said deed was and is fraudulent and void, as against your complainant, the same having been made as aforesaid, for the purpose of defeating and delaying your complainant, or of preferring the said defendant, L. McC., and being in contravention of the provisions of Statutes passed in the thirteenth and twenty-seventh years of the reign of Her late Majesty Queen Elizabeth, and of the Consolidated Statutes of Upper Canada, chapter twenty-six.

8. That since the making of the said deed, mentioned in the fifth paragraph hereof, and up to the present time, the said defendant, J. McC., has remained in the possession, use, and occupation of the said premises with his brother, the said defendant, L. McC., the same as he did prior to the said conveyance to his said brother, the defendant, L. McC.

9. The said Sheriff has been, and still is, prevented and hindered by the said deed or conveyance from executing the said writ against the lands of the said defendant, J. McC., and unless the said deed is set aside your complainant will be unable to obtain the fruits of her said execution against the lands of the said last-named defendant.

10. That for the reasons aforesaid, your complainant submits that the said deed is fraudulent and void as against your complainant, and ought to be set aside and cancelled.

Your complainant therefore prays:

1. That the said deed made to the said defendant, L. McC., by the defendant, J. McC., may be declared to be fraudulent and void as against your complainant, and may be set aside and ordered to be delivered up to be cancelled, and that the registration and registered duplicate thereof may in like manner be ordered to be cancelled.
2. That the defendants may be ordered to pay your complainant her costs of this suit.
3. That for the purposes aforesaid all proper directions may be given and accounts taken.
4. That your complainant may have such further and other relief as to your Lordships may seem meet.

And your complainant will ever pray.

In Chancery.

E.—A. ....Plaintiff.  
and  
S.—A.....Defendant.

City of Hamilton, }  
to wit: }

To the Honourable the Judges of the Court of Chancery.

The Bill of Complaint of E. A., late of the Township of ———, in the County of ———, now of the Township of ———, in the County of ———, wife of S. A., the above named defendant.

598.

Bill for alimony, with notice demanding interim alimony under order 488.



Showeth as follows :

1. The plaintiff was married to the defendant in the month of December, A. D. 1856, and they shortly after their marriage took up their residence on a farm in the said Township of———, where they have till lately continued to reside as man and wife.

2. In a very short time after their said marriage, the defendant began to exhibit a very bad temper, and disposition towards your complainant, and has continued to do so, until she was compelled to leave him as hereafter stated.

3. The defendant during all this time has been in the habit of using intoxicating drinks and has been frequently so much under their influence as to become very abusive in his language to your complainant, and this has occurred so often that her life with him, during all the period above mentioned, has, from this cause alone, been one of constant unpleasantness and apprehension—quite irrespective of the personal violence used by him towards her hereafter particularly mentioned.

4. During this period the defendant has frequently struck your complainant; and has pulled her violently by the hair and otherwise assaulted her in so gross a manner as to compel her on several occasions to escape from him either by locking herself in a room, or by leaving the house and hiding in the adjoining premises.

5. The low, scurrilous abuse which the defendant has, during the sixteen years of their married life, heaped on your complainant, interspersed with the personal violence he has used towards her, your complainant has (until recently) borne with—being unwilling to expose these unhappy private relations to the public, and hoping that time would produce a favourable change; but her forbearance has brought no improvement in the conduct of the defendant towards her.

6. Among the numerous instances of gross personal violence inflicted on your complainant by the defendant, she avers that, on the 25th of May last, he threw at her and broke upon her head and face a number of eggs; and choked her by the throat until she feared he would strangle her. In the month of March A.D. 1870, he so violently struck and bruised her, that she feared he would take her life. In the fall of the year 1869, he caught her by the hair and brutally dragged her around the cellar of the house, causing such apprehensions for her life that she barred herself in a room to prevent the infliction of further violence. On New Year's day (A. D.

1868) the defendant choked your complainant. About five years ago the defendant violently expelled your complainant from his house, and about three years ago his abuse and threats or violence to her were so great that she in fear of her life locked herself in her room in order to be secure against his approach.

7. During all this period your complainant has discharged all the duties of a wife to the defendant, and she has by her exertions contributed in a great degree to the accumulation of the property which he now owns, consisting of a good and well-stocked farm with comfortable house and out-buildings being lot No.—, in the First Concession of the said Township of—, worth about \$4000, and money out at interest and other personalty worth about \$6000 more.

8. Your complainant has never had any children by the defendant, and neither he nor she had any family before they were married.

9. Your complainant, in consequence solely of the constant abusive and violent conduct of the defendant as above detailed and from the apprehension that her life is at no moment safe while living with the defendant, left his house and premises on the Seventh day of June A. D. 1872.

10. Your complainant has no means of living excepting by her daily labour, and unless relief be afforded by this Honourable court, she will be reduced to great distress.

Your complainant therefore prays that she may be declared entitled to alimony from the defendant (and also to interim alimony) sufficient under the circumstances; and that he may be decreed to pay the same to her, and that he may be ordered to pay the costs of this suit.

And that your complainant may have such further and other relief in the premises as the circumstances of the case may require; and that for that purpose all necessary directions may be given and accounts taken.

To S. A., the within defendant

Take notice that the plaintiff demands as interim alimony, until the hearing of this cause, the weekly sum of \$4 to be paid to her on the Monday of each week at the residence of—, near the Village of— in the Township of — and costs according to the rules of this Court.

Your's, &c.,

A. B.

*Plaintiff's Solicitor.*

889.  
Bill to declare  
a deed executed by  
plaintiff, while  
an infant,  
void, and for a  
re-conveyance.

In Chancery.

Between—M. F. T. B.,.....Plaintiff.  
and  
J. B.,.....Defendant.

City of Kingston.

Unto the Honourable the Judges of the Court of Chancery.

The Bill of Complaint of M. F. T. B., of the City of Kingston, spinster, Sheweth as follows:—

1. One N. B., in his lifetime of the Town of Oakville, mariner, the plaintiff's father, died on or about the—— day of July, in the year of our Lord one thousand eight hundred and fifty-two, the owner in fee simple to his own use and in possession of that certain parcel of land situate in the (*describe land*.)

2. By his last will and testament duly executed as by law is required for the effectual devise of real estate in Ontario bearing date on or about the twenty-first day of June, in the year of our Lord one thousand eight hundred and fifty-two, the said N. B. devised the said parcel of land to his wife M. A. B. until the plaintiff should attain the age of twenty-one years, or until his said wife should marry again, in trust for the support and maintenance of his said wife, and of the plaintiff until his said wife should marry again or the plaintiff should attain the age of eighteen years.

3. In and by his said will the said N. B. further directed that, in the event of his said wife marrying again, the said parcel of land should be rented and managed by the executors in the said will named for the plaintiff's benefit and support in such manner as such executors should think proper, and he thereby declared that the said parcel should become the sole property of the plaintiff in fee simple when the plaintiff should attain the age of eighteen years.

4. The said N. B., shortly afterwards, made a codicil to his said will, but he did not thereby or otherwise alter or revoke the disposition hereinbefore stated of the said land before his death.

5. The said M. A. B. married one P. H. in or about the year one thousand eight hundred and fifty three, and the plaintiff, who was then an infant of the age of four years, lived with her mother and the said P. H. thenceforth until the making of the conveyance hereinafter mentioned, and afterwards.

6. The plaintiff attained the age of eighteen years on or about the third day of December, one thousand eight hundred and sixty-seven, and in the month of January

following the said P. H. informed the plaintiff that he had sold the said parcel of land to the defendant and required the plaintiff and her mother to go to Hamilton to meet the defendant to carry out the sale.

7. Thereupon and on or about the sixth day of January, one thousand eight hundred and sixty-eight, the said P. H. brought the plaintiff and her mother to Hamilton where the said P. H. and the defendant induced the plaintiff and her mother to execute a conveyance of the said parcel of land to the defendant, and such conveyance was accordingly in fact executed to the defendant by the plaintiff and her said mother, and the same was accordingly afterwards registered in the Registry Office for the County of Wentworth by the defendant.

8. The plaintiff executed the said deed under the coercion and at the request of the said P. H. and the defendant, and she was then an infant under the age of twenty-one years, and had no advice or assistance, and was ignorant of her rights in the premises.

9. The plaintiff received no benefit from the said sale or from the purchase money, but the said P. H. received the benefit thereof as was intended when the bargain was made between the said P. H. and the defendant.

10. The defendant immediately after the execution of the said conveyance entered into possession of the said premises and has continued in possession thereof and in the receipt of the rents and profits thereof ever since.

11. The plaintiff's mother died in April, one thousand eight hundred and seventy, and the plaintiff attained her age of twenty-one years in the month of December in the same year, and as soon after as she was properly advised of her rights she repudiated the said conveyance and notified the defendant that she did so, and she refused to be bound thereby or to ratify or confirm the same.

12. The registration of the said deed forms a cloud on the plaintiff's title to the said parcel of land, and the plaintiff applied to the defendant before suit to execute, and tendered to him for that purpose a proper instrument to remove such cloud; but the defendant refused and still refuses to execute any such instrument or to deliver up possession to the plaintiff.

13. The defendant was well aware, when he took the said conveyance and entered into possession as aforesaid, of the plaintiff's infancy, and the plaintiff submits that the defendant is accountable to her as a bailiff for the rents and profits of the said parcel of land since he took such possession.

14. The defendant threatens and intends, unless restrained by the order and injunction of this Honourable Court, to alienate or encumber the said land and to commit waste thereon.

The plaintiff therefore prays as follows:—

1. That the defendant may be ordered to execute such instrument as may be necessary to remove the cloud on the plaintiff's title caused by the registration of the said conveyance and to deliver the said conveyance to the plaintiff to be cancelled.
2. That the defendant may also be ordered to account for and to pay to the plaintiff the rents and profits of the same parcel of land since he entered into possession or occupation thereof, and the costs of this suit.
3. That in the meantime the defendant may be restrained from alienating or encumbering the same, and from committing any waste or destruction thereon.
4. That for the purposes aforesaid all proper directions may be given and accounts taken, and that the plaintiff may have such further and other relief as to this Honourable Court shall seem meet.

And the plaintiff will ever pray, &c.

900.  
Bill to set  
aside convey-  
ance as frau-  
dulent and an  
evasion of the  
Insolvency  
Act.

In Chancery.

Between F. M. W. and A. McK.....Plaintiffs.  
and

J. S., J. W. M and J. L.....Defendants.

City of Hamilton.

To the Honourable the Judges of the Court of Chancery:

The Bill of Complaint of F. M. W. and A. McK., both of the city of Hamilton, in the county of Wentworth, accountants,

Sheweth as follows:

1. R. J. H. and one M. D. for many years previous to and in the year one thousand eight hundred and sixty-four carried on business in Hamilton in Canada West, as Bankers and Brokers under the style and firm of "H. D. & Co."

2. Prior to and in the month of September, one thousand eight hundred and sixty-four, the said firm had become and it then was insolvent, and has since continued

insolvent, and the joint estate was inadequate to the payment of the joint debts, and the separate property and estate of the said R. J. H. was and is inadequate to the payment of his separate debts, and though the separate estate of the said M. D. was more than adequate to the payment of his separate debts, yet the surplus of the separate estate of said M. D. was inadequate to the payment of the deficiency between the amount of the assets of the joint estate and the amount of the joint debts.

3. In the month of August, one thousand eight hundred and sixty four, one O. recovered a Judgment for a large sum against the said R. J. H. and placed an execution in the hands of the Sheriff of the County of Wentworth thereon against the goods and chattels of the said R. J. H. but the same was still in the hands of the said Sheriff, wholly unsatisfied, on the thirteenth day of September, one thousand eight hundred and sixty four, and on and prior to the thirteenth day of September, one thousand eight hundred and sixty four, there were a great number of actions pending against the said R. J. H. representing in the aggregate over ten thousand dollars to which actions the said R. J. H. had no just defence and the said R. J. H. was well aware that Judgments could be obtained against him in such actions upon or within a few days, after the thirteenth day of September, one thousand eight hundred and sixty four, and the said firm of H. D. & Co. had stopped payment and suspended business and their Insolvency was public, and the Defendant S. was prior to and on the said thirteenth day of September, one thousand eight hundred and sixty four, well aware and had actual notice and knowledge of the said Insolvency of the said R. J. H. and of the said firm of H. D. & Co. and of the recovery of said O's said Judgment, of the pending of said actions against the said R. J. H. and that said R. J. H. had no defence thereto and of the period when Judgment, could be entered therein against him and execution issued upon such Judgments, and both the said R. J. H. and the Defendant S. then were well aware that proceedings had been taken and were then pending, under the Insolvent Act of 1864, to place the estate of R. J. H. and M. D. as partners as aforesaid and as individuals into compulsory liquidation under the said Act.

5. Under these circumstances, the said R. J. H. fraudulently desiring to evade the provisions of the said Insolvent Act, and to secure the administration of his estate by a Trustee of his own choosing and to fraudulently hinder, impede, obstruct and delay his creditors in their reme-

dies against him under the said Insolvent Act formed the fraudulent design to accomplish his said objects by means of an Indenture by way of assignment of his estate and effects to be made otherwise than in the manner prescribed by said Act to the defendant S. and to be expressed to be in trust for the benefit of the creditors of the said R. J. H.

6. In pursuance of the said fraudulent design and with the intent, object and purpose aforesaid, on the thirteenth day of September, one thousand eight hundred and sixty-four, an Indenture of Assignment for the pretended benefit of creditors was made and executed by the said R. J. H. to the said J. S. and by him accepted and executed otherwise than in the manner, prescribed by said Act, dated the thirteenth day of September, eighteen hundred and sixty four, comprising the whole of the estate and effects of the said R. J. H., which said Indenture is in the words and figures following. "Know all men by these presents that I, R. J. H., of the City of Hamilton, Esquire, do grant and assign into J. S., of the same place, accountant, his heirs, executors, administrators and assigns that certain Judgment recovered by me against J. C. T. on the twenty-fifth day of August last, for the sum of thirteen thousand three hundred and eighty seven dollars, seventy-four cents in Her Majesty's Court of Queen's Bench for Upper Canada, and all moneys hereby due thereunder made payable and all benefits and advantages which I now have and may hereafter have and all other debts owing or accruing due to me.

"To have and to hold the same, unto the said J. S., his executors, administrators and assigns, In trust for the general benefit of the creditors of me, the said R. J. H. *pari passu* and without any preference and priority according to the provisions of Insolvent Act of 1864.

"Witness my hand and seal the 13 September, 1864.

"Signed, sealed and delivered	}	"R. J. H.
in presence of R. A. L.		"J. S.
		"T. H."

7. The Judgment of H. versus T. in said Indenture of Assignment referred to was and is in point of fact the only asset of any nature or kind whatever of the estate of said R. J. H. that was or is of any value whatever.

8. At the time of the making of the said Indenture of Assignment, and of the acceptance thereof, by the defendant S., the said defendant, had actual notice and knowledge of all the facts and circumstances set forth in all the preceding paragraphs of this Bill.

9. Your orators submit that the said Indenture of As-



signment was and is void as against your orators under the provisions of the Insolvent Act of 1864.

10. The said T. H. who executed the said pretended Indenture of Assignment was at the time of the execution thereof a creditor of the said R. J. H. and executed the same as such but he has since ceased to be a creditor of the said R. J. H.

11. The names of all the creditors of the said R. J. H. individually and as a partner of the firm of H. D. & Co., are unknown to your orators, but the number of such creditors of each class which are known to your orators are very large exceeding fifty in number of each class; the defendant J. W. M. is a creditor of the said R. J. H. individually and the defendant J. L. is a creditor of the said R. J. H., as a partner of the firm of H. D. & Co.; your orators submit that the said defendants J. W. M. and J. L. sufficiently represent the creditors of the said R. J. H. who would be entitled to share in the moneys to be realized under the said pretended assignment.

12. The said J. S. has taken and retains possession of the said Deed of Assignment and has under colour thereof endeavoured to collect and get into his possession, and is now endeavouring to collect and get into his possession, the moneys arising from the said Judgment in the said assignment referred to, and has, with the object aforesaid, in like manner demanded and is demanding the same from the Sheriff of the County of Wentworth, and has also in like attempted to collect or compromise other debts due to the said R. J. H. at the time of making the said assignment, and in like manner has, with full notice and knowledge of the appointment of your orators as assignees of the said R. J. H. as set forth in the thirteenth paragraph of this Bill obstructed and impeded, and is impeding and obstructing, your orators, in the execution of their duties as official assignees of the estate and effects of said R. J. H. and threatens and intends to and will receive and collect the said debts and moneys and intermeddle with the estate and effects of the said R. J. H. unless restrained by the order and injunction of this Honourable Court.

13. On the 1st day of October, A. D. 1864, a writ of attachment was issued out of the County Court of the County of Wentworth under the Insolvent Act of 1864, at the suit of G. L. against the said R. J. H. and M. D. as partners and as individuals, and thereupon such proceedings were duly had and taken against the said R. J. H. and M. D. under the provisions of said Act that, at a meeting of the creditors of said R. J. H. and M. D. holden



before the Judge of said Court at Hamilton, on the 10th day of November A. D. 1864, the plaintiffs were duly appointed the official assignees of the estate and effects of the said R. J. H. and M. D. as such partners and as individuals, and the plaintiffs then became and were and now are such official assignees of the whole of the separate estate of the said R. J. H. and of the whole of the said partnership property and of the individual property of the said R. J. H. and the same became vested in the plaintiffs as such assignees, as aforesaid.

Your orators pray as follows :

1. That the said Indenture of Assignment to the defendant S. may be declared fraudulent and void as against your orators and that the same may be delivered up to be cancelled.

2. And that the defendant S. may be ordered to deliver up to your orators all deeds, books of account, bills, notes, vouchers, moneys, documents, goods, effects and property whatever belonging to the estate of the said R. J. H. which have come to the possession or control of the said defendant S. and retransfer and reassign the same to your orators.

3. And that the defendant S. may be restrained by the order and injunction of this Honourable Court from interfering or intermeddling with the said Judgment of H. versus T. in the Bill mentioned and from collecting the moneys, thereby secured and from collecting any debts or moneys due to the said R. J. H. or in any way dealing with or disposing thereof and from impeding your orators in the execution of their said duties as such assignees of the estate and effects of the said R. J. H.

4. And that the said S. may be ordered to account to your orators for all moneys, securities, goods property, or effects, he may have received under the said assignment and pay and deliver the same to your orators.

5. And that the defendants, or one of them may be directed to pay the costs of this suit.

6. That for the purposes aforesaid all proper accounts may be taken and directions given that may be necessary.

7. And for such further and other relief as the nature of the case shall require and shall seem just.

8. And your orators will ever pray, &c.

In Chancery.

Between—J. J. M.....Plaintiff.  
and  
T. O. S. and D. V. S., his wife, R. M.,  
H. C. and E. S., an infant under the  
age of twenty-one years...Defendants.

901.  
Bill to set  
aside deed as  
fraudulent,  
and void  
against credi-  
tors.

To the Honourable the Judges of the Court of Chancery.  
City of Hamilton.

The Bill of Complaint of J. J. M., of the City of Hamilton, Accountant, the Assignee of the estate and effects of the above-named T. O. S., under the provisions of the Insolvent Act of 1869.

Sheweth:

1. The said defendant T. O. S., carried on business as a Merchant, at the Village of Princeton, in the County of Oxford, previous to and on the 2nd day of March, A. D. 1871, and he was then indebted in the sum of \$4,100 and upwards to various unsecured business and other creditors, and such debts still subsist, and are unpaid, and he was, and now is, also indebted in \$2,500 secured by mortgage on the farm then belonging to him hereinafter mentioned.

2. In the said month of March, and for some time previously thereto, and at the time of the execution by him of the Indenture of the 2nd March, A. D. 1871, hereinafter mentioned, the stock in trade, and all the property and assets of the said T. O. S., of every kind, except the farm hereinafter particularly mentioned, did not exceed in value the sum of \$1,400, the said farm was of the value of about \$2,000 over and above all incumbrances by mortgage, and the said assets then were, and have ever since remained, insufficient for the payment of the debts of the said defendant, T. O. S., and he then was insolvent within the meaning of the Statutes relating to Insolvency in force in this Province, and was then aware of said facts.

3. While the affairs of the said T. O. S. were in the position hereinbefore stated, an Indenture, dated the 2nd March, A. D. 1871, expressed to be made between the said defendants, T. O. S., of the first part, and the defendants, R. M. and H. C., therein described as both of the City of Hamilton, in the County of Wentworth, Solicitors, of the second part, was prepared, and the same was executed by the said three defendants, whereby, after reciting that the defendant, T. O. S., was desirous of making a provision for the support and maintenance of his said wife during her life, and the support, maintenance and education of their children, and that the said Indenture was made for the said consideration, and the further sum of \$1 the

said defendant, T. O. S., did convey unto the said defendants, R. M. and H. C., hereafter called the Trustees in fee as joint tenants his said farm, which is described as follows, that is to say (*Describe the lands*), upon Trust, to collect and get in the rents thereof, and pay the same to the said wife of the said defendant, T. O. S., for the support of herself and the said children during the life of the said wife, and after his death to the duly appointed guardian of the children till they should respectively attain the age of twenty-one years. But if the said wife should live till the said children should attain the age of twenty-one years, the said defendants, the Trustees, are empowered to pay such portion of said rents to the said defendant, D. V. S., as they shall see fit, and after the death of the said D. V. S., but not before the youngest child shall become of age, then in trust, to sell the said lands and divide the proceeds equally, or to divide the said lands equally, between the said children, with power to the said defendants, the Trustees, to make advances for the education of any of the said children out of his or her presumptive share, it being declared by the said deed that the share of any child or children dying and leaving issue, shall belong to such issue, but if any child or children should die without issue, his or her share shall be equally divided amongst the survivors: and it is by said Indenture further provided that the defendants, the Trustees, may at any time sell the said lands, invest the proceeds thereof, and apply the income and proceeds in the manner hereinbefore set forth, and that if the children of the said T. O. S., by his said wife, should die without lawful issue, the said lands or proceeds thereof should, after the death of the said D. V. S., revert and belong to the said defendant, T. O. S. The said Indenture contains no covenant or agreements of any kind from the said Trustees to the said defendant, T. O. S., or from him to them. The said deed was executed upon the day of the date thereof, or within four days thereafter; the lands thereby conveyed formed by far the largest part of the property of the said defendant, T. O. S., and the residue of his property was insufficient for the payment of his debts.

4. The defendants, the Trustees, before and at the time of the execution of the said Indenture, knew that the defendant was indebted in a sum exceeding \$1,000 in respect of a private debt over and above all his business debts, and that he had no property of any kind except the said farm and his stock in trade, and the assets of his said business; and the said deed was executed by the defend-

ant, T. O. S., with intent to hinder, defeat and delay his creditors in their remedies against him.

5. At the time of the execution of the said deed, several of the debts then and still owing by the said defendant, T. O. S., were past due, and he was without the means for payment thereof; and within a few days thereafter he called a meeting of his creditors, and, failing to pay or satisfy them, was served with a demand to execute an assignment in Insolvency under the Insolvent Act of 1869, whereupon he did on the 1st day of May, A. D. 1871, voluntarily assign his estate and effects under the said Act to J. McW., an official assignee duly appointed under said Act, and resident in the said County of Oxford, as the interim assignee of the said estate; and subsequently at the meeting of the creditors, duly called for the appointment of the assignee, and held on the 23rd day of May, A. D. 1871, the plaintiff was duly appointed the assignee to the estate of the Insolvent by the creditors, who had duly proved their claims as provided by the said Act, and thereupon the said J. McW. duly executed the deed of transfer of said estate to the plaintiff, dated the 23rd day of May, A. D. 1871, and delivered over the said estate to the plaintiff, who duly accepted the same.

6. The said defendants T. O. S. and D. V. S. had been married over eleven years prior to the execution of said Indenture, and had married without any settlement or agreement for settlement whatever, and they had issue of their said marriage three children, the eldest of whom is under ten years of age—the defendant, E. S., is the eldest of such children,—and the plaintiff submits properly represents the rest of said issue. The said E. S. resides with the said D. V. S., at the Township of Saltfleet, in the County of Wentworth. One of the younger of said children has died since the filing of this bill.

7. The said Indenture was made and executed as aforesaid, without any money or valuable consideration whatever, and hinders, defeats and delays the creditors of the said defendant, T. O. S., in their remedies against him and his estate; and the plaintiff submits that said Indenture is, under the circumstances aforesaid, voluntarily fraudulent and void as against the plaintiff as assignee as aforesaid, and the creditors of said T. O. S., under the provisions of the several Statutes in that behalf, especially the Statute of 13 Elizabeth, chapter 5, and the Statutes of Canada, known as the Insolvent Act of 1869, and the Indigent Debtors' Act.

8. The defendants, the Trustees, are in receipt of the

rents and profits of the said farm, and have paid some thereof to the said D. V. S., and have some thereof in their hands.

The plaintiff prays as follows:

1. That the said Indenture of the 2nd day of March, A. D. 1871, may be declared voluntary fraudulent and void as against the plaintiff as such assignee as aforesaid, and the creditors of said T. O. S., and may be set aside accordingly.
2. That the plaintiff as such assignee as aforesaid may be declared to be entitled to the said lands, and that the Trustees may be directed to pay over to them all rents received or to be received from the said premises.
3. That the said defendants, or some of them, may be ordered to pay the costs of this suit.
4. That all such other accounts (if any) may be taken and directions (if any) given as may be necessary.
5. That the plaintiff may have such further and other relief in this matter as the nature of the case may require.

902.  
Bill to prevent  
waste.

In Chancery.

Between—The C. B. of C.....Plaintiffs,  
and

R. J. H., S. B. F., and M. O'R.  
Defendants.

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of the C. B. of C., the above named Plaintiffs, a Corporation duly incorporated under the Statutes of this Province.

Sheweth as follows:

1. G. C. C. was in his lifetime the owner in fee simple of a certain farm, known as the "C. farm," composed of (*Describe the land*).
2. The said G. C. C. died on or about the 24th day of June, 1864, having first made his will, the same being contained in two instruments, the one dated the 19th day of July, A. D., 1861, the other dated the 9th of September, A. D., 1863, both duly executed and attested, so as to pass real estate in Upper Canada, and by the first mentioned of said instruments he appointed the defendant, M. O'R., sole executor of his said will, and by the second thereof, without revoking the appointment of said M. O'R. as executor, as aforesaid, he devised the said lands unto the de-

fendants, S. B. F. and R. J. H., as joint tenants, and to the heirs and assigns of the survivor, in trust for the benefit, use and advantage of A. H. H., during her natural life, but in such manner that no husband of hers shall have any control over the same, and after her death then to her children, their heirs and assigns for ever, and in the event of her death without children then living, then to the use, benefit and advantage of J. M. and J. C. H., and upon the condition that W. H., a son of the said R. J. H., should not in any event take any advantage or benefit from any of the foregoing trusts.

3. The defendant, M. O'R., has duly proved the said two instruments as the will of the said G. C. C.—probate thereof has been granted to him as sole executor of said will, in due form of law, by the Surrogate Court of the County of Wentworth, the proper court in that behalf.

4. The defendants, S. B. F. and R. J. H., have accepted the said trusts, under the said will, and have caused the same to be registered in the proper Registry for lands in the County of Halton.

5. The said G. C. C. was, in his lifetime, indebted to the plaintiffs in a sum of \$42,000, as indorser of two certain Bills of Exchange, held by the said Bank; one thereof for \$40,000 made by the firm of H., D. & Company, of which the defendant, R. J. H., was a partner, and on which the defendant, S. B. F., was also an endorser; the other for \$2,000, made by the defendant, R. J. H. On this last mentioned note, the defendant, R. J. H., paid \$500, but failed to pay any portion of the residue of either of said notes, and thereupon on the death of said C., the plaintiffs, in due course of law, sued the defendant, M. O'R., as Executor of the last Will and Testament of the said G. C. C., in the Court of Queen's Bench, to recover the said moneys, and thereupon the plaintiffs duly recovered judgment in the said action, on the 7th day of June, 1865, for \$42,812.92 damages, and \$28.55 costs, issued an Execution thereon in due form of law against the defendant, M. O'R., as such Executor, as aforesaid, addressed to the Sheriff of the County of Wentworth, commanding him to levy the said moneys of the goods and chattels in his County, of the said G. C. C., in the hands of said M. O'R., as such Executor, as aforesaid, to be administered, and to return the same in due form of law.

6. The said Sheriff afterwards returned the said writ with his return thereon endorsed to the effect that the said defendant, M. O'R., as such Executor as aforesaid,

had no goods of the said G. C. C. in his hands, whereof he could cause the said moneys, or any part thereof, to be levied, and thereupon a writ of Execution was duly issued by the plaintiffs, upon said judgment against the defendant, M. O'R., as such Executor as aforesaid, directed to the Sheriff of the County of Halton, Commanding him to levy the said moneys and interest of the lands and tenements in his County of the said G. C. C., in due course of law, which said writ duly indorsed, was delivered to the Sheriff of the County of Halton, for Execution, on the 9th day of June, 1865, and your orators submit that they have thereby acquired a lien upon the said lands, and that the timber and trees thereon, and privileges and appurtenances thereto belonging and are entitled to have the same applied in and towards payment thereof.

7. The said lands and another parcel of about 150 acres devised by said C., to one H. E. F., form the whole of the lands of the said late G. C. C., in the County of Halton, and the whole thereof together are not worth the sum of \$15,000, and your Complainants have no other security for the said judgment debt except the said lands, and a parcel of about 60 acres of land in the Township of East Flamborough, in the County of Wentworth, worth not more than \$1,500, and which are levied on by a concurrent writ against lands issued upon said judgment, and directed to and placed in the hands of the Sheriff of the County of Wentworth for execution, and the whole of the said lands in the Counties of Wentworth and Halton form an insufficient security for the payment of the said judgment debt. The said firm of H., D. & Co. and said R. J. H. have both become Insolvent; their estates are being wound up in Insolvency, but it is as yet impossible to tell accurately the amount of the dividend, but the same will be exceedingly small, certainly under 25 cents on the dollar: the plaintiffs recovered from the defendant, S. B. F., who was an endorser on said note of \$40,000, the sum of \$10,000, and save as aforesaid, your Complainants have not received, nor do they hold any security or satisfaction whatever for the said judgment debt, interest and costs, and the whole of said real properties of said C., in the Counties of Wentworth and Halton, form a security insufficient by at least \$20,000 for the payment of the said judgment debt of your Complainants.

8. The lands mentioned in the 1st paragraph of this Bill have always been used together as one property, and known as the "C. Farm," of which about 180 acres are

cleared, and when the said writ against lands was placed in the hands of the Sheriff of the County of Halton, as stated in the 6th paragraph of this Bill, there was a large quantity of timber, trees, wood and underwood, and valuable fallen timber, growing, being and lying on the said lands of the value of at least \$2,000. And the said premises would, if stripped of said timber, be much less valuable as a farm, and less saleable, the said timber being required for the purposes of fencing, fuel and building on the said farm.

9. The defendant, R. J. H. has always acted, now acts, and is acting on behalf of himself and the defendant S. B. F., as Managing Trustee under said trusts contained in said C.'s Will, and the said defendants, R. J. H. and S. B. F., threaten and intend to commit waste on the said premises, by cutting down, removing, selling, and disposing of the whole of the timber, trees, wood, underwood and fallen timber on the last said mentioned lands, and applying the proceeds thereof for the purposes of the said trusts, and the defendant, H., so acting as aforesaid, on behalf of himself and the said S. B. F., has offered, and now is offering the same for sale, and has employed one W. C. to cut and remove the said fallen timber, a great deal of which is valuable for saw logs and fencing purposes, and has thrown down fences on said lands to enable said C. and others the more easily to remove timber or wood fallen thereon, and said C. has removed a large quantity of such fallen timber: and unless restrained by the order and injunction of this Honorable Court, the said defendants, H. and F., will cause the said lands to be wholly stripped of said timber, trees, wood, underwood and fallen timber.

10. The defendant, M. O'R. objects to the said proceedings of the defendants R. J. H., and S. B. F., and to any waste whatever being committed on said farm. The said S. B. F. in answer to enquiries in that behalf made by your complaints denies all knowledge of the said acts of the defendant R. J. H., but has in no way interfered to prevent the same or expressed his dissent or disapproval thereof, and the said R. J. H. has avoided the agent of your complainant sent to notify him to desist from the waste aforesaid.

11. The Defendants, S. B. F. and R. J. H., have both actual notice and knowledge of the fact of the recovery of the said Judgment by your Complainants; the placing of the said writs of execution in the hands of the Sheriff of the County of Halton, and of every other fact and circumstance in this Bill set forth.



Your Complainants therefore pray :

1. That the Defendants, S. B. F., and R. J. H. may be restrained by the order and injunction of this Honorable Court, from committing such waste as aforesaid, and from selling, or attempting to sell the said timber, and other trees standing, growing and being thereon, and from removing the said fallen timber, and from committing any other waste, spoil or destruction on the said premises, and may account for the waste already committed.
2. That the said Defendants may be ordered to pay your Complainants the costs of this suit.
3. That for the purposes aforesaid all such other accounts may be taken, enquiries made, and directions given, as the nature of the case may require.
4. And for such further and other relief as the nature of the case shall require and shall seem just.
5. And your Complainants will ever pray.

903.  
Bill to enforce  
specific per-  
formance of an  
agreement to  
convey land.

In Chancery.

Between—A. S.....Plaintiff.  
and  
L. McC.....Defendant.

Town of Woodstock.

To the Honourable the Judges of the Court of Chancery  
The Bill of Complaint of A. S., of the Township of  
St. Vincent, in the County of Grey, and Province of  
Ontario, yeoman.

Sheweth as follows :

1. That by an agreement dated the fourteenth day of January, in the year of our Lord one thousand eight hundred and sixty-nine, the above-named defendant agreed with your complainant to sell to your complainant certain freehold property therein described as all and singular (*Describe the land*), for the price or sum of two thousand eight hundred and fifty dollars, payable in the manner and on the days and times following : the sum of one thousand two hundred dollars to be paid on the first day of March, in the year of our Lord one thousand eight hundred and sixty-nine, the sum of one thousand two hundred and sixty dollars to be paid on a mortgage on said lands held by one W. H. P., and to be paid in accordance with

the conditions of said mortgage, and the remaining sum of three hundred and ninety dollars to be paid in three equal annual instalments of one hundred and thirty dollars each, with interest on the same at the rate of six per cent. per annum, as mentioned in said agreement, to which, when produced (the plaintiff craves leave to refer), will more fully appear.

2. That by the said agreement the defendant agreed to give the plaintiff a good and sufficient deed of the said land in fee simple with usual covenants of warranty, and freed and discharged of all dower and incumbrances.

3. That on the twenty-eighth day of January, in the year of our Lord one thousand eight hundred and sixty-nine, the plaintiff, in consideration of the said agreement, and relying upon the same, and upon the defendant's fulfilling his part thereof, paid to the said defendant the sum of two hundred dollars on account of said purchase money of the said land.

4. That on the first day of March, in the year of our Lord one thousand eight hundred and sixty-nine, your complainant went to the defendant and tendered to him the sum of one thousand dollars, being the balance of said cash payment of one thousand two hundred dollars, and requested the defendant to fulfil his part of said agreement, the plaintiff offering to do all things necessary on his part to carry out said agreement, but the defendant refused to accept the said sum of one thousand dollars, and refused to carry out said agreement, or to convey said land to the plaintiff.

5. That by the said agreement the plaintiff and defendant mutually agreed that if either of them should fail to perform the conditions required of them, thereby the party so failing should forfeit and pay to the other party the sum of four hundred dollars.

6. That on or about the eleventh day of March, in the year of our Lord one thousand eight hundred and sixty-nine, the plaintiff again went to the defendant and tendered to the defendant the sum of one thousand dollars, and also tendered to the defendant a deed in duplicate, in proper form, for execution (which the plaintiff craves leave to refer to when produced to this Honourable Court), and desired the defendant to perform the said agreement, and execute the said deed or conveyance, but the defendant again refused, and still refuses, to execute said deed, or to carry out his part of said agreement.

7. The plaintiff claims that he is entitled to a specific performance of said agreement on the part of the de-

defendant, hereby offering to do all things necessary on his part to be done in the premises, or that in default of such specific performance, he is entitled to receive from the defendant the said sum of four hundred dollars, and also to be repaid the sum of two hundred dollars (and interest thereon) paid by him as aforesaid to the defendant, on account of said purchase money.

The plaintiff, therefore, prays as follows:

1. That the said contract or agreement may be specifically performed by the said L. McC., the plaintiff being ready and willing, and hereby offering to perform the same in all respects upon his part, or that in default of the said L. McC. performing same, that plaintiff may be paid the said sum, of four hundred dollars, and also the sum of two hundred dollars paid by him as aforesaid, with interest.
  2. That the said sums of four hundred dollars and two hundred dollars may be declared to be a lien upon the said lands.
  3. That the said land may be sold, and the proceeds applied in payment of the said two sums of money.
  4. That the plaintiff may have such further and other relief as the nature of the case may require, and and as to your Lordships may seem meet.
- And your complainant will ever pray.

#### 804.

Bill for partition and administration.

In Chancery.

Between—L. C. S., an Infant under the age of twenty-one years, by W. W. W., his next friend,.....Plaintiff,  
and  
J. P., R. P., E. P. S., H. C., and T. C.,.....Defendants.

City of Hamilton.

To the Honorable the Judges of the Court of Chancery.

The Bill of Complaint of I. C. S., of the Town of Lowell, Kent County, in the State of Michigan, an infant under the age of twenty-one years, by W. W. W., of the City of Hamilton, his next friend.

Humbly sheweth:

1. That A. C., late of the Township of Saltfleet, in the County of Wentworth, Yeoman, was, in his lifetime and at the time of his death, hereinafter mentioned, seized in

fee simple or otherwise well and sufficiently entitled to the following lands and premises, that is to say: (*Insert description of lands*).

2. Being so seized, the said A. C. died on or about the 15th day of April, A. D., 1853, without having made any last will or testament.

3. The said A. C. left him surviving his widow, the Defendant, R. P., and the following children:—I. C., who resides in Kent County, in the State of Michigan; M. A., wife of the Defendant, P. A., who resides in the Township of Caradoc, in the County of Middlesex; D. G., who married one R. G., in the year 1855; B. S., wife of the Defendant, E. P. S., of Kent County, in the State of Michigan; S. A., wife of J. A., of the Township of Cascade, in the County of Kent, in the State of Michigan; J. C., wife of C. C., of the Township of Saltfleet, in the County of Wentworth; and the Defendants H. C. and T. C., also of the said Township of Saltfleet.

4. The said R. C. died six or seven years ago. The said B. S. died about thirteen years ago, intestate, and leaving her surviving, her husband, the Defendant E. P. S., and her son, your complainant herein.

5. The Defendant R. P. married the Defendant, J. P. in the fall of the year 1854.

6. The Defendant R. P., is entitled to dower in the said lands.

7. By Quit-claim Deed, bearing date the 30th day of January, A. D., 1861, and registered on the 11th day of March, A. D., 1868, the said I. C. released unto the said J. P. and R. P., all his right, title and interest in the said lands.

8. By another Deed bearing date the 13th day of December, A. D., 1869, and registered on the 4th day of January, A. D., 1870, the said S. A. and J. A. released unto the said J. P. and R. P. all their right, title and interest in the said lands.

9. By a certain other Indenture bearing date the 29th day of July, A. D., 1869, and registered the 31st day of July, A. D., 1869, the said D. G. conveyed all her right, title and interest in the said lands to the said J. P. and R. P.

10. By a certain other Indenture bearing date the 29th day of October, 1869, and registered the same day, the said M. A. and P. A. conveyed all their right, title and interest in the said lands to the said J. P. and R. P.

11. By virtue of the several Indentures in the four last paragraphs mentioned, the said J. P. and R. P. are joint

owners in fee simple of four undivided one-eighth shares or interests in the said realty.

12. By deed of Bargain and Sale bearing date the 19th day of May, 1870, and registered on the following day, the said J. C. and C. C. granted and conveyed all their right, title and interest in the said lands to the said H. C.

13. By Indenture of Bargain and Sale by way of Mortgage, bearing date the 19th day of May, and registered on the same day, the said H. C. mortgaged all his interest in the said lands to the said J. P. and R. P., for securing the sum of \$700 and interest thereon.

14. By virtue of the Indentures in the two last paragraphs mentioned, the said H. C. is owner in fee simple of two undivided one-eighth shares, or interests in the said lands, subject to the Mortgage aforesaid.

15. The said T. C. is entitled to an undivided one-eighth share or interest in the said realty, and your Complainant is entitled to the remaining one-eighth share, subject to the life interest of his father, the Defendant E. P. S., as tenant by the curtesy.

16. Your Complainant is desirous that the said lands and premises be partitioned amongst the several parties entitled thereto, under the statutes of this Province, or if the sale thereof should on the whole be considered by this Honorable Court more advantageous to the parties interested, that the sale thereof should be made accordingly and the proceeds thereof distributed among the parties entitled thereto.

17. The said A. C. died possessed also of personal estate of or about the value of \$1000.

18. By letters of administration bearing date the 6th day of August, A. D., 1853, the Defendant R. P. was by the proper Court in that behalf appointed administratrix of all and singular, the personal estate and effects, rights and credits of the said A. C.

19. After the death of the said A. C., the said R. P. remained in possession of the said lands and premises and of the said goods, chattels and effects, until her marriage with the said Defendant J. P., since which time they have been jointly in possession of the whole of the said estates.

20. Your Complainant and some of the Defendants have repeatedly applied to the Defendant R. P. for an account of the said personal estate, and a distribution thereof, and both to her and the said J. P. for an account of the rents and profits of the said realty, but they absolutely refuse to render or furnish any account thereof, or to allow your Complainant or the other parties interested therein,

anything whatever for the use and occupation of the said premises since the death of the said A. C.

21. The said J. P. has committed waste upon the said lands and premises, by cutting down and removing therefrom and selling, large quantities of pine and hardwood timber growing and being thereon; the proceeds of which he has applied to his own use.

22. Your Complainant is desirous that the personal estate of the said A. C. should be administered under the guidance and direction of this Honorable Court; that an occupation rent of the said premises from the date of the death of the said A. C. should be fixed and the Defendants R. P. and J. P. charged therewith; and that the said J. P. should be charged with the timber converted to his own use as aforesaid.

Your Complainant therefore prays:—

*Firstly*,—That the personal estate of the said A. C. may be administered under the direction of this Honorable Court.

*Secondly*,—That an enquiry as to what would be a fair occupation rent of the said lands and premises may be ordered, and the Defendants R. P. and J. P. may be charged with the same from the time they have been in possession; and that the said J. P. may be ordered to account for all timber that he has removed as aforesaid.

*Thirdly*,—That a partition of the said realty and an allotment of the several shares thereof, may be made between your Complainant and the other parties interested therein.

*Fourthly*,—Or if a sale be considered on the whole more advantageous, that a sale thereof may be ordered accordingly, and the proceeds thereof distributed among the parties entitled thereto.

*Fifthly*,—That the dower of the said R. P. may be assigned to her, or in the event of her consenting thereto, that an allowance in lieu of such dower may be fixed under the direction of this Honorable Court.

*Sixthly*,—That all necessary accounts may be taken and inquiries made.

*Seventhly*,—That your Complainant may have such further and other relief as to your Lordships may seem meet.

And your Complainant will ever pray, &c.



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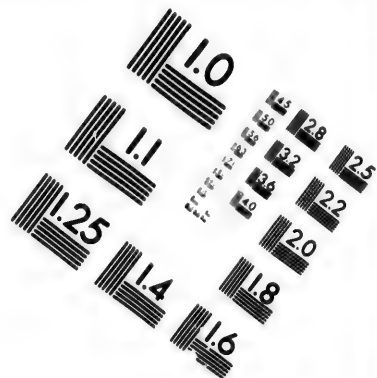
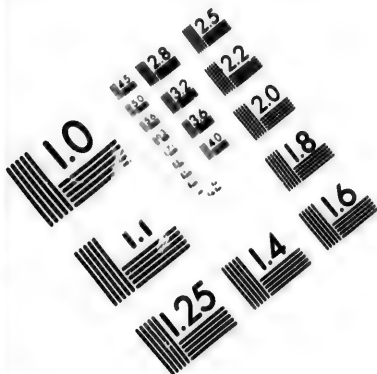
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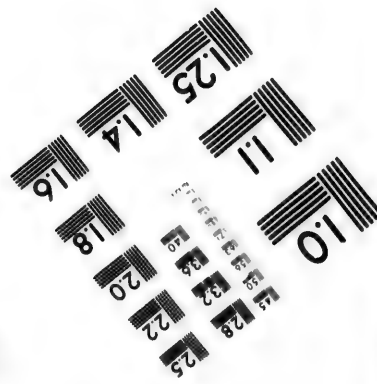
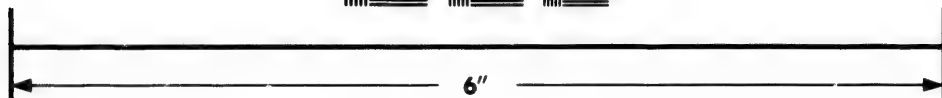
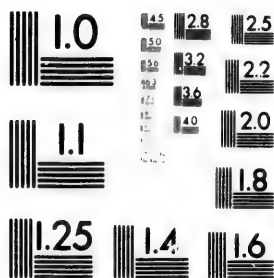
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